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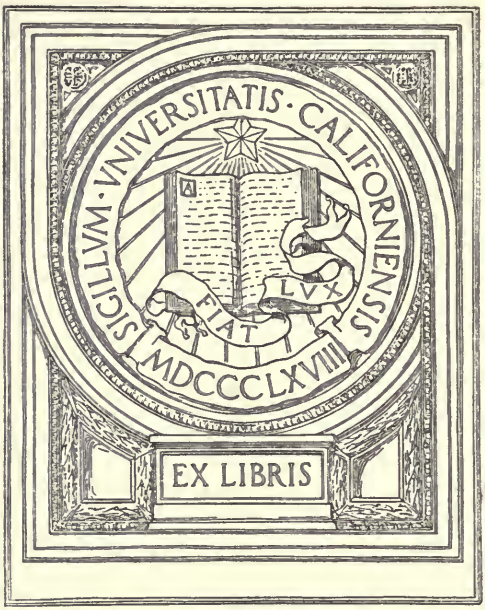

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Thomas H. Benton.

THIRTY YEARS' VIEW;

OR,

A HISTORY OF THE WORKING OF THE AMERICAN GOVERNMENT FOR THIRTY YEARS,

FROM 1820 TO 1850.

CHIEFLY TAKEN

FROM THE CONGRESS DEBATES, THE PRIVATE PAPERS OF GENERAL JACKSON AND THE SPEECHES OF EX-SENATOR BENTON, WITH HIS ACTUAL VIEW OF MEN AND AFFAIRS:

WITH

HISTORICAL NOTES AND ILLUSTRATIONS, AND SOME NOTICES OF EMINENT DECEASED COTEMPORARIES:

BY A SENATOR OF THIRTY YEARS.

IN TWO VOLUMES.

VOL. I.

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AUTO-BIOGRAPHICAL SKETCH.

[The outlines of the life of the lately deceased Thomas H. Benton, which are contained in the following pages, were prepared by the author and subject of them whilst he was suffering excruciating pain from the disease that, a few weeks later, closed his earthly career. They were not intended for a Biography, properly so called, but rather to present some salient points of character and some chief incidents of life, and in respect of them, at least, to govern subsequent Biographies.]

Thomas Hart Benton, known as a senator for thirty years in Congress, and as the author of several works, was born in Orange County, near Hillsborough, North Carolina, March 14th, 1782; and was the son of Col. Jesse Benton, an able lawyer of that State, and of Ann Gooch, of Hanover county, Virginia, of the family of the Gooches of colonial residence in that State. By this descent, on the mother's side, he took his name from the head of the Hart family (Col. Thomas Hart, of Lexington, Kentucky), his mother's maternal uncle; and so became related to the numerous Hart family. He was cousin to Mrs. Clay, born Lucretia Hart, the wife of Henry Clay; and, by an easy mistake, was often quoted during his public life as the relative of Mr. Clay himself. He lost his father before he was eight years of age, and fell under the care of a mother still young, and charged with a numerous family, all of tender age—and devoting herself to them. She was a woman of reading and observation—solid reading, and observation of the men of the Revolution, brought together by course of hospitality of that time, in which the houses of friends, and not taverns, were the universal stopping places. Thomas was the oldest son, and at the age of ten and twelve was reading solid books with his mother, and studying the great examples of history, and receiving encouragement to emulate these examples. His father's library, among others, contained the famous State Trials, in the large folios of that time, and here he got a foundation of British history, in reading the treason, and other trials, with which these volumes abound She was also a pious and religious woman, cultivating the moral and religious education of her children, and connected all her life with the Christian church; *first*, as a member of the English Episcopalian, and when removal to the Great West, then in the wilderness, had broken that connection, then in the Methodist Episcopalian—in which she died. All the minor virtues, as well as the greater, were cherished by her; and her house, the resort of the eminent men of the time, was the abode of temperance, modesty, decorum. A pack of cards was never seen in her house. From such a mother all the children

received the impress of future character; and she lived to see the fruits of her pious and liberal cares—living a widow above fifty years, and to see her eldest son half through his senatorial career, and taking his place among the historic men of the country for which she had begun so early to train him. These details deserve to be noted, though small in themselves, as showing how much the after life of the man may depend upon the early cares and guidance of a mother.

His scholastic education was imperfect: *first*, at a grammar school taught by Richard Stanford, Esq., then a young New England emigrant, soon after, and for many years, and until death, a representative in Congress, noted as the life-long friend of Macon and Randolph. Afterwards he was at Chapel Hill, the University of North Carolina, but finished no course of study there, his mother removing to Tennessee, where his father had acquired great landed property (40,000 acres), and intended to make Nashville his home; and now, as the eldest of the family, though not grown, the care and management of a new settlement, in a new country, fell upon him. The family went upon a choice tract of 3000 acres, on West Harpeth, twenty-five miles south of Nashville, where for several years the main care was the opening a farm in the wilderness. Wilderness! for such was the state of the country at that time within half a day's ride of the city of Nashville. "The widow Benton's settlement" was the outside settlement between civilization and the powerful southern tribes which spread to the Gulf of Mexico. The Indian wars had just been terminated, and the boundary which these great tribes were enabled to exact brought their frontier almost to the gates of Nashville—within 25 miles! for the line actually touched the outside line of the estate. The Indians swarmed about it. Their great war trace (the trace on which they came for blood and plunder in time of war, for trade in time of peace) led through it. Such a position was not to be maintained by a small family alone—a widow, and every child under age, only some twenty odd slaves. It required strength! and found it in the idea of a little colony—leases to settlers without price, for seven years; moderate rents afterwards. The tract was well formed for the purpose, being four miles square, with every attraction for settlement—rich land fine wood, living streams. Settlers came; the ground was covered over: it was called "Benton Town," and retains the name to this day. A rude log school-house, a meeting house of the same primitive structure, with roads and mills, completed the rapid conversion of this wilderness into an abode of civilization. The scholastic education of her son had ceased, but reading continued; and books of solid instruction became his incessant companions. He has been heard to say that, in no period of his life, has he ever read so much, nor with as much system and regularity, nor with the same profit and delight. History and geography was (what he considered) his light reading; national law, the civil law, the common law—and, finally, the law itself, as usually read by law students—constituted his studies. And all this reading, and study, was carried on during the active personal exertions which he gave to the opening of the farm and to the ameliorations upon it which comfort exacted.

Then came the law license, indulgently granted by the three Superior Court Judges —White, Overton, and Campbell—the former afterwards senator in Congress, Overton an eminent lawyer before he was a Superior Court judge, and Campbell, one of the

respectable early settlers and lawyers of the State. The law license signed, practice followed, and successful—Gen. Jackson, Gen. James Robertson, Judge McNairy, Major Thomas Hardeman, and the old heads of the population giving him their support and countenance as a young man that might become useful to the State, and so deserved to be encouraged. Scarcely at the bar, and a legislative career was opened to him. He was elected to the General Assembly of the State; and, though serving but for a single session, left the impress of his mind and principles on the statute book, and on the public policy. He was the author of the Judicial Reform Act, by which the old system of Superior Courts was substituted by the circuit system, in which the administration of justice was relieved of great part of its delay, of its expense, and of much of its inconvenience to parties and witnesses. And he was the author of a humane law, giving to slaves the same full benefit of jury trial which was the right of the white man under the same accusation—a law which still remains on the statute book, but has lost its effect under the fatal outside interference which has checked the progress of Southern slave policy amelioration, and turned back the current which was setting so strongly in favor of mitigating the condition of the slave.

Returning to the practice of the law, the war of 1812 broke out. Volunteers were called for, to descend the rivers to New Orleans, to meet the British, expected there in the winter of 1812–'13, but not coming until the winter of 1814–'15. Three thousand volunteers were raised! raised in a flash! under the *prestige* of Jackson's name—his patriotic proclamation—and the ardent addresses of Benton, flying from muster ground to muster ground, and stimulating the inherent courage and patriotism of the young men. They were formed into three regiments, of which Benton was colonel of one. He had been appointed aide-de-camp to Jackson (then a major-general in the Tennessee militia), on the first symptoms of war with Great Britain, and continued to perform many of the most intimate duties of that station, though, as colonel of a regiment, he could not hold the place. The force descended to the Lower Mississippi: the British did not come; the volunteers returned to Tennessee, were temporarily disbanded, but called again into service by Gen. Jackson at the breaking out of the Creek war. These volunteers were the foundation of all Jackson's subsequent splendid career; and the way in which, through their means, he was enabled to get into the regular army, is a most curious piece of history, not told anywhere but by Col. Benton, as a member of the House of Representatives, on the presentation of Jackson's sword (Feb. 26th, 1855). That piece of unknown history, which could only come from one who was part and parcel of the transaction, deserves to be known, and to be studied by every one who is charged with the administration of government, and by every one who would see with what difficulties genius and patriotism may have to contend—with what chances they may have to wrestle —before they get an opportunity to fulfil a destiny for which they were born.

The volunteers disbanded, Col. Benton proceeded to Washington, and was appointed by Mr. Madison a lieutenant-colonel of infantry in the army (1813); and afterwards (1814–15) proceeding to Canada, where he had obtained service, he met the news of peace; and desiring no service in time of peace, he was within a few months on the west bank of the Mississippi, St. Louis his home, and the profession of the law ardently

recommenced. In four years the State of Missouri was admitted into the Union, and Col. Benton was elected one of her first senators; and, continuously by successive elections, until 1851. From that time his life was in the public eye, and the bare enumeration of the measures of which he was the author, and the prime promoter, would be almost a history of Congress legislation. The enumeration is unnecessary here: the long list is known throughout the length and breadth of the land—repeated with the familiarity of household words from the great cities on the seaboard to the lonely cabins on the frontier—and studied by the little boys who feel an honorable ambition beginning to stir within their bosoms, and a laudable desire to learn something of the history of their country.

Omitting this detail of well-known measures, we proceed to something else characteristic of Senator Benton's legislative life, less known, but necessary to be known to know the man. He never had a clerk, nor even a copyist; but did his own writing, and made his own copies. He never had office, or contract, for himself, or any one of his blood. He detested office seeking, and office hunting, and all changes in politics followed by demand for office. He was never in any Congress caucus, or convention to nominate a President or Vice-President, nor even suffered his name to go before such a body for any such nominations. He refused many offices which were pressed upon him—the mission to Russia, by President Jackson; war minister, by Mr. Van Buren; minister to France, by Mr. Polk. Three appointments were intended for him, which he would have accepted if the occasions had occurred—command of the army by General Jackson, if war took place with Mexico during his administration; the same command by the same President, if war had taken place with France, in 1836; the command of the army in Mexico, by President Polk, with the rank of lieutenant-general, if the bill for the rank had not been defeated in the Senate after having passed the House by a general vote. And none of these military appointments could have wounded professional honor, as Col. Benton, at the time of his retiring from the army, ranked all those who have since reached its head.

Politically, Col. Benton always classed democratically, but with very little regard for modern democracy, founded on the platforms which the little political carpenters reconstruct about every four years, generally out of office-timber, sometimes green and sometimes rotten, and in either case equally good, as the platform was only wanted to last until after the election. He admitted no platform of political principles but the constitution, and viewed as impertinent and mischievous the attempt to expound the constitution, periodically, in a set of hurrah resolutions, juggled through the fag-end of a packed convention, and held to be the only test of political salvation during its brief day of supremacy.

His going to Missouri, then a Territory under the pupillage of Congress, was at a period of great interest both for the Territory and the Union. Violent parties were there, as usual in Territories, and great questions coming on upon which the future fate of the State, and perhaps of the Union, depended. The Missouri controversy soon raged in Congress, throughout the States, and into the Territory. An active restriction party was in the Territory, largely reinforced by outside aid, and a decided paper was wanting

to give the proper tone to the public mind. Col. Benton had one set up, and wrote for it with such point and vigor that the Territory soon presented a united front, and when the convention election came round there was but one single delegate elected on the side of restriction. This united front had an immense effect in saving the question in Congress.

Besides his legislative reports, bills and speeches, sufficient to fill many volumes, Col. Benton is known as the author of some literary works—the Thirty Years' View of the inside working of the Federal Government; the Abridgment of Debates of Congress from 1789 to (intended) 1856; and an examination of the political part (as he deemed it) of the Supreme Court's decision in the Dred Scott case, that part of it which pronounced the abrogation of the Missouri Compromise line and the self-extension of the Constitution to Territories carrying African slavery along with it, and keeping it there in defiance of Congress or the people of the Territory. There was also a class of speeches, of which he delivered many, which were out of the line of political or legislative discussion; and may be viewed as literary. They were the funeral eulogiums which the custom of Congress began to admit, though not to the degree at present practised, over deceased members. These eulogiums were universally admired, and were read over Europe, and found their charm in the *perception of character which they exhibited;* in the perception of the qualities which constituted the man, and gave him identity and individuality. These qualities, thus perceived (and it requires intimate acquaintance with the man, and some natural gift, to make the perception), and presented with truth and simplicity, imparted the interest to these eulogiums which survives many readings, and will claim lasting places in biographies.

While in the early part of life, at Nashville and at St. Louis, duels and affrays were common; and the young Benton had his share of them: a very violent affray between himself and brother on one side, and Genl. Jackson and some friends on the other, in which severe pistol and dagger wounds were given, but fortunately without loss of life; and the only use for which that violent collision now finds a reference is in its total oblivion by the parties, and the cordiality with which they acted together for the public good in their subsequent long and intimate public career. A duel at St. Louis ended fatally, of which Col. Benton has not been heard to speak except among intimate friends, and to tell of the pang which went through his heart when he saw the young man fall, and would have given the world to see him restored to life. As the proof of the manner in which he looks upon all these scenes, and his desire to bury all remembrance of them forever, he has had all the papers burnt which relate to them, that no future curiosity or industry should bring to light what he wishes had never happened.

Col. Benton was married, after becoming Senator, to Elizabeth, daughter of Col James McDowell, of Rockbridge county, Virginia, and of Sarah his wife, born Sarah Preston; and has surviving issue four daughters: Mrs. William Carey Jones, Mrs. Jessie Ann Benton Fremont, Mrs. Sarah Benton Jacob, and Madame Susan Benton Boilleau, now at Calcutta, wife of the French consul general—all respectable in life and worthy of their mother, who was a woman of singular merit, judgment, elevation of character, and regard

for every social duty, crowned by a life-long connection with the church in which she was bred, the Presbyterian old school. Following the example of their mother, all the daughters are members of some church. Mrs. Benton died in 1854, having been struck with paralysis in 1844, and from the time of that calamity her husband was never known to go to any place of festivity or amusement.

PREFACE

1.—MOTIVES FOR WRITING THIS WORK.

JUSTICE to the men with whom I acted, and to the cause in which we were engaged, is my chief motive for engaging in this work. A secondary motive is the hope of being useful to our republican form of government in after ages by showing its working through a long and eventful period; working well all the time, and thereby justifying the hope of its permanent good operation in all time to come, if maintained in its purity and integrity. Justice to the wise and patriotic men who established our independence, and founded this government, is another motive with me. I do not know how young I was when I first read in the speeches of Lord Chatham, the encomium which he pronounced in the House of Lords on these founders of our republic; but it sunk deep into my memory at the time, and, what is more, went deep into the heart: and has remained there ever since. "When your lordships look at the papers transmitted us from America; when you consider their decency, firmness, and wisdom, you cannot but respect their cause, and wish to make it your own. For myself, I must declare and avow, that in all my reading and observation—and it has been my favorite study—I have read Thucydides, and have studied and admired the master states of the world—that for solidity of reasoning, force of sagacity, and wisdom of conclusion, under such a complication of difficult circumstances, no nation, or body of men, can stand in preference to the general

congress at Philadelphia." This encomium, so just and so grand, so grave and so measured, and the more impressive on account of its gravity and measure, was pronounced in the early part of our revolutionary struggle—in its first stage—and before a long succession of crowning events had come to convert it into history, and to show of how much more those men were capable than they had then done. If the great William Pitt—greater under that name than under the title he so long refused—had lived in this day, had lived to see these men making themselves exceptions to the maxim of the world, and finishing the revolution which they began—seen them found a new government and administer it in their day and generation, and until "gathered to their fathers," and all with the same wisdom, justice, moderation, and decorum, with which they began it: if he had lived to have seen all this, even his lofty genius might have recoiled from the task of doing them justice;—and, I may add, from the task of doing justice to the PEOPLE who sustained such men. Eulogy is not my task; but gratitude and veneration is the debt of my birth and inheritance, and of the benefits which I have enjoyed from their labors; and I have proposed to acknowledge this debt—to discharge it is impossible—in laboring to preserve their work during my day, and in now commending it, by the fruits it has borne, to the love and care of posterity. Another motive, hardly entitled to the dignity of being named, has its weight with me, and belongs to the rights of "self-defence." I have made a great many speeches, and have an apprehension that they may be published after I am gone—published in the gross, without due discrimination—and so preserve, or perpetuate, things said, both of men and of measures, which I no longer approve, and would wish to leave to oblivion. By making selections of suitable parts of these speeches, and weaving them into this work, I may hope to prevent a general publication—or to render it harmless if made. But I do not condemn all that I leave out.

2.—QUALIFICATIONS FOR THE WORK.

Of these I have one, admitted by all to be considerable, but by no means enough of itself. Mr. Macaulay says of Fox and Mackintosh, speaking of their histories of the last of the Stuarts, and of the Revolution of 1688: "They had one eminent qualification for writing history; they had spoken history, acted history, lived history. The turns of political fortune, the ebb and flow of popular feeling, the hidden mechanism by which parties are moved, all these things were the subject of their constant thought, and of their most familiar conversation. Gibbon has remarked, that his history is much the better for his

having been an officer in the militia, and a member of the House of Commons. The remark is most just. We have not the smallest doubt that his campaigns, though he never saw an enemy, and his parliamentary attendance, though he never made a speech, were of far more use to him than years of retirement and study would have been. If the time that he spent on parade and at mess in Hampshire, or on the Treasury bench and at Brooke's, during the storms which overthrew Lord North and Lord Shelburne, had been passed in the Bodleian Library, he might have avoided some inaccuracies; he might have enriched his notes with a greater number of references; but he never could have produced so lively a picture of the court, the camp, and the senate-house. In this respect Mr. Fox and Sir James Mackintosh had great advantages over almost every English historian since the time of Burnet."—I can say I have these advantages. I was in the Senate the whole time of which I write—an active business member, attending and attentive—in the confidence of half the administrations, and a close observer of the others—had an inside view of transactions of which the public only saw the outside, and of many of which the two sides were very different—saw the secret springs and hidden machinery by which men and parties were to be moved, and measures promoted or thwarted—saw patriotism and ambition at their respective labors, and was generally able to discriminate between them. So far, I have one qualification; but Mr. Macaulay says that Lord Lyttleton had the same, and made but a poor history, because unable to use his material. So it may be with me; but in addition to my senatorial means of knowledge, I have access to the unpublished papers of General Jackson, and find among them some that he intended for publication, and which will be used according to his intention.

3.—THE SCOPE OF THE WORK.

I do not propose a regular history, but a political work, to show the practical working of the government, and speak of men and events in subordination to that design, and to illustrate the character of Institutions which are new and complex—the first of their kind, and upon the fate of which the eyes of the world are now fixed. Our duplicate form of government, State and Federal, is a novelty which has no precedent, and has found no practical imitation, and is still believed by some to be an experiment. I believe in its excellence, and wish to contribute to its permanence, and believe I can do so by giving a faithful account of what I have seen of its working, and of the trials to which I have seen it subjected.

4.—THE SPIRIT OF THE WORK.

I write in the spirit of Truth, but not of unnecessary or irrelevant truth, only giving that which is essential to the object of the work, and the omission of which would be an imperfection, and a subtraction from what ought to be known. I have no animosities, and shall find far greater pleasure in bringing out the good and the great acts of those with whom I have differed, than in noting the points on which I deemed them wrong. My ambition is to make a veracious work, reliable in its statements, candid in its conclusions, just in its views, and which cotemporaries and posterity may read without fear of being misled.

CONTENTS OF VOLUME I.

		PAGE.
PRELIMINARY VIEW from 1815 to 1820		1
CHAP.		
I.	Personal Aspect of the Government	7
II.	Admission of the State of Missouri	8
III.	Finances—Reduction of the Army	11
IV.	Relief of Public Land Debtors	11
V.	Oregon Territory	13
VI.	Florida Treaty and Cession of Texas	14
VII.	Death of Mr. Lowndes	18
VIII.	Death of William Pinkney	19
IX.	Abolition of the Indian Factory System	20
X.	Internal Improvement	21
XI.	General Removal of Indians	27
XII.	Visit of Lafayette to the United States	29
XIII.	The Tariff, and American System	32
XIV.	The A. B. Plot	34
XV.	Amendment of the Constitution, in relation to the Election of President and Vice-President	37
XVI.	Internal Trade with New Mexico	41
XVII.	Presidential and Vice-Presidential Elections in the Electoral Colleges	44
XVIII.	Death of John Taylor, of Caroline	45
XIX.	Presidential Election in the House of Representatives	46
XX.	The Occupation of the Columbia	50
XXI.	Commencement of Mr. Adams's Administration	54
XXII.	Case of Mr. Lanman—Temporary Senatorial Appointment from Connecticut	56
XXIII.	Retiring of Mr. Rufus King	57
XXIV.	Removal of the Creek Indians from Georgia	58
XXV.	The Panama Mission	65
XXVI.	Duel Between Mr. Clay and Mr. Randolph	70
XXVII.	Death of Mr. Gaillard	77
XXVIII.	Amendment of the Constitution, in relation to the Election of President and Vice-President	78
XXIX.	Reduction of Executive Patronage	80
XXX.	Exclusion of Members of Congress from Civil Office Appointments	82
XXXI.	Death of the ex-Presidents, John Adams and Thomas Jefferson	87
XXXII.	British Indemnity for Deported Slaves	88
XXXIII.	Meeting of the first Congress Elected under the Administration of Mr. Adams	91
XXXIV.	Revision of the Tariff.	95
XXXV.	The Public Lands—Their Proper Disposition—Graduated Prices—Pre-emption Rights—Donations to Settlers	102
XXXVI.	Cession of a Part of the Territory of Arkansas to the Cherokee Indians	107
XXXVII.	Renewal of the Oregon Joint Occupation Convention	109
XXXVIII.	Presidential Election of 1828, and Further Errors of Mons. de Tocqueville	111
XXXIX.	Retiring and Death of Mr. Macon	114
XL.	Commencement of General Jackson's Administration	119
XLI.	First Message of General Jackson to the two Houses of Congress	121
XLII.	The recovery of the Direct Trade with the British West India Islands	124
XLIII.	Establishment of the *Globe* Newspaper	128
XLIV.	Limitation of Public Land Sales—Suspension of Surveys—Abolition of the Office of Surveyor General—Origin of the United States Land System—Authorship of the Anti-slavery Ordinance of 1778—Slavery Controversy—Protective Tariff—Inception of the Doctrine of Nullification	130
XLV.	Repeal of the Salt Tax	143
XLVI.	Birthday of Mr. Jefferson, and the Doctrine of Nullification	148
XLVII.	Regulation of Commerce	149
XLVIII.	Alum Salt—The Abolition of the Duty upon it, and Repeal of the Fishing Bounty and Allowances Founded on it	154

CHAP.		PAGE.
XLIX.	Bank of the United States	158
L.	Removals from Office	159
LI.	Indian Sovereignties within the States	163
LII.	Veto on the Maysville Road Bill.	167
LIII.	Rupture between President Jackson and Vice-President Calhoun	167
LIV.	Breaking up of the Cabinet, and Appointment of another	180
LV.	Military Academy	182
LVI.	Bank of the United States—Non-renewal of Charter	187
LVII.	Error of De Tocqueville, in relation to the House of Representatives	205
LVIII.	The Twenty-second Congress.	208
LIX.	Rejection of Mr. Van Buren, Minister to England	214
LX.	Bank of the United States—Illegal, and Vicious Currency.	220
LXI.	Error of Mons. de Tocqueville, in relation to the Bank of the United States, the President, and the People	224
LXII.	Expenses of the Government.	229
LXIII.	Bank of the United States—Recharter—Commencement of the Proceedings	232
LXIV.	Bank of the United States—Committee of Investigation Ordered	235
LXV.	The Three per Cent. Debt, and Loss in not Paying it when the Rate was Low, and the Money in the Bank of the United States without Interest	242
LXVI.	Bank of the United States—Bill for the Recharter Reported in the Senate, and Passed that Body.	243
LXVII.	Bank of the United States—Bill for the Renewed Charter Passed in the House of Representatives	250
LXVIII.	The Veto	251
LXIX.	The Protective System	265
LXX.	Public Lands—Distribution to the States	275
LXXI.	Settlement of French and Spanish Land Claims	279
LXXII.	"Effects of the Veto"	280
LXXIII.	Presidential Election of 1832	282
LXXIV.	First Annual Message of President Jackson, after his Second Election	283
LXXV.	Bank of The United States—Delay in Paying the Three per Cents.—Committee of Investigation	287
LXXVI.	Abolition of Imprisonment for Debt	291
LXXVII.	Sale of United States Stock in the National Bank	294
LXXVIII.	Nullification Ordinance in South Carolina	297
LXXIX.	Proclamation against Nullification	299
LXXX.	Message on the South Carolina Proceedings	303
LXXXI.	Reduction of Duties—Mr. Verplanck's Bill	308
LXXXII.	Reduction of Duties—Mr. Clay's Bill	313
LXXXIII.	Revenue Collection, or Force Bill	330
LXXXIV.	Mr. Calhoun's Nullification Resolutions.	334
LXXXV.	Secret History of the "Compromise" of 1833	342
LXXXVI.	Compromise Legislation; and the Act, so called, of 1833	344
LXXXVII.	Virginia Resolutions of '98–'99—Disabused of their South Carolina Interpretation—1. Upon their Own Words—2. Upon Contemporaneous Interpretation	347
LXXXVIII.	Virginia Resolutions of 1798—Disabused of Nullification by their Author	354
LXXXIX.	The Author's own View of the Nature of Our Government, as being a Union in Contradistinction to a League · Presented in a Subsequent Speech on Missouri Resolutions	360
XC.	Public Lands—Distribution of Proceeds	362
XCI.	Commencement of the Twenty-third Congress—The Members', and President's Message	369
XCII.	Removal of the Deposits from the Bank of the United States	373
XCIII.	Bank Proceedings, on Seeing the Decision of the President, in relation to the Removal of the Deposits	379
XCIV.	Report of the Secretary of the Treasury to Congress on the Removal of the Deposits	381
XCV.	Nomination of Government Directors, and their Rejection	385
XCVI.	Secretary's Report on the Removal of the Deposits	393
XCVII.	Call on the President for a Copy of the "Paper Read to the Cabinet".	399
XCVIII.	Mistakes of Public Men—Great Commination against General Jackson—Commencement of the Panic	400
XCIX.	Mr. Clay's Speech against President Jackson on the Removal of the Deposits—Extracts	402
C.	Mr. Benton's Speech in Reply to Mr. Clay—Extracts	406
CI.	Condemnation of President Jackson—Mr. Calhoun's Speech—Extracts	411
CII.	Public Distress.	415
CIII.	Senatorial Condemnation of President Jackson—his Protest—Notice of the Expunging Resolution	423
CIV.	Mr. Webster's Plan of Relief	433
CV.	Revival of the Gold Currency—Mr. Benton's Speech	436
CVI.	Attempted Investigation of the Bank of the United States	453
CVII.	Mr. Taney's Report on the Finances—Exposure of the Distress Alarms—End of the Panic	462
CVIII.	Revival of the Gold Currency	469
CIX.	Rejection of Mr. Taney—Nominated for Secretary of the Treasury	470

CHAP.		PAGE.
CX.	Senatorial Investigation of the Bank of the United States	470
CXI.	Downfall of the Bank of the United States	471
CXII.	Death of John Randolph, of Roanoake	473
CXIII.	Death of Mr. Wirt	475
CXIV.	Death of the last of the Signers of the Declaration of Independence	476
CXV.	Commencement of the Session, 1834-'35: President's Message	477
CXVI.	Report of the Bank Committee	481
CXVII.	French Spoliations before 1800	487
CXVIII.	French Spoliations — Speech of Mr. Wright, of New-York	489
CXIX.	French Spoliations--Mr. Webster's Speech	505
CXX.	French Spoliations--Mr. Benton's Speech	514
CXXI.	Attempted Assassination of President Jackson	521
CXXII.	Alabama Expunging Resolutions	524
CXXIII.	The Expunging Resolution	528
CXXIV.	Expunging Resolution: Rejected, and Renewed	549
CXXV.	Branch Mints at New Orleans, and in the Gold Regions of Georgia and North Carolina	550
CXXVI.	Regulation Deposit Bill	553
CXXVII.	Defeat of the Defence Appropriation, and loss of the Fortification Bill	554
CXXVIII.	Distribution of Revenue	556
CXXIX.	Commencement of Twenty-Fourth Congress—President's Message	568
CXXX.	Abolition of Slavery in the District of Columbia	576
CXXXI.	Mail Circulation of Incendiary Publications	580
CXXXII.	French Affairs—Approach of a French Squadron—Apology Required	588
CXXXIII.	French Indemnities—British Mediation —Indemnities Paid	600
CXXXIV.	President Jackson's Foreign Diplomacy	601
CXXXV.	Slavery Agitation	609
CXXXVI.	Removal of the Cherokees from Georgia	624
CXXXVII.	Extension of the Missouri Boundary	626
CXXXVIII.	Admission of the States of Arkansas and Michigan into the Union	627
CXXXIX.	Attempted Inquiry into the Military Academy	638
CXL.	Military Academy—Speech of Mr. Pierce	641
CXLI.	Expunging Resolution — Peroration of Senator Benton's Second Speech	645
CXLII.	Distribution of the Land Revenue	649
CXLIII.	Recharter of the District Banks—Speech of Mr. Benton—The Parts of Local and Temporary Interest Omitted	658
CXLIV.	Independence of Texas	665
CXLV.	Texas Independence — Mr. Benton's Speech	670
CXLVI.	The Specie Circular	676
CXLVII.	Death of Mr. Madison, Fourth President of the United States	678
CXLVIII.	Death of Mr. Monroe, Fifth President of the United States	679
CXLIX.	Death of Chief Justice Marshall	681
CL.	Death of Col. Burr, Third Vice-President of the United States	681
CLI.	Death of William B. Giles, of Virginia	682
CLII.	Presidential Election of 1836	683
CLIII.	Last Annual Message of President Jackson	684
CLIV.	Final Removal of the Indians	690
CLV.	Recision of the Treasury Circular	694
CLVI.	Distribution of Lands and Money—Various Propositions	707
CLVII.	Military Academy—Its Riding House	712
CLVIII.	Salt Tax—Mr. Benton's Fourth Speech	714
CLIX.	Expunging Resolution—Preparation for Decision	717
CLX.	Expunging Resolution—Mr. Benton's Third Speech	719
CLXI.	Expunging Resolution—Mr. Clay, Mr. Calhoun, Mr. Webster—Last Scene—Resolution Passed and Executed	727
CLXII.	The Supreme Court—Judges and Officers	731
CLXIII.	Farewell Address of President Jackson —Extract	732
CLXIV.	Conclusion of General Jackson's Administration	733
CLXV.	Retiring and Death of General Jackson— Administration of Martin Van Buren	735

PRELIMINARY VIEW.

FROM 1815 TO 1820

THE war with Great Britain commenced in 1812, and ended in 1815. It was a short war, but a necessary and important one, and introduced several changes, and made some new points of departure in American policy, which are necessary to be understood in order to understand the subsequent working of the government, and the VIEW of that working which is proposed to be given.

1. It struggled and labored under the state of the finances and the currency, and terminated without any professed settlement of the cause for which it began. There was no national currency—no money, or its equivalent, which represented the same value in all places. The first Bank of the United States had ceased to exist in 1811. Gold, from being undervalued, had ceased to be a currency—had become an article of merchandise, and of export—and was carried to foreign countries. Silver had been banished by the general use of bank notes, had been reduced to a small quantity, insufficient for a public demand; and, besides, would have been too cumbrous for a national currency. Local banks overspread the land; and upon these the federal government, having lost the currency of the constitution, was thrown for a currency and for loans. They, unequal to the task, and having removed their own foundations by banishing specie with profuse paper issues, sunk under the double load of national and local wants, and stopped specie payments—all except those of New England, which section of the Union was unfavorable to the war. Treasury notes were then the resort of the federal government. They were issued in great quantities; and not being convertible into coin at the will of the holder, soon began to depreciate. In the second year of the war the depreciation had already become enormous, especially towards the Canada frontier, where the war raged, and where money was most wanted. An officer setting out from Washington with a supply of these notes found them sunk one-third by the time he arrived at the northern frontier—his every three dollars counting but two. After all, the treasury notes could not be used as a currency, neither legally, nor in fact: they could only be used to obtain local bank paper—itself greatly depreciated. All government securities were under par, even for depreciated bank notes. Loans were obtained with great difficulty—at large discount—almost on the lender's own terms; and still attainable only in depreciated local bank notes. In less than three years the government, paralyzed by the state of the finances, was forced to seek peace, and to make it, without securing, by any treaty stipulation, the object for which war had been declared. Impressment was the object—the main one, with the insults and the outrages connected with it—and without which there would have been no declaration of war. The treaty of peace did not mention or allude to the subject—the first time, perhaps, in modern history, in which a war was terminated by treaty without any stipulation derived from its cause. Mr. Jefferson, in 1807, rejected upon his own responsibility, without even its communication to the Senate, the treaty of that year negotiated by Messrs. Monroe and Pinkney, because it did not contain an express renunciation of the practice of impressment—because it was silent on that point. It was a treaty of great moment, settled many troublesome questions, was very

desirable for what it contained; but as it was silent on the main point, it was rejected, without even a reference to the Senate. Now we were in a like condition after a war. The war was struggling for its own existence under the state of the finances, and had to be stopped without securing by treaty the object for which it was declared. The object was obtained, however, by the war itself. It showed the British government that the people of the United States would fight upon that point—that she would have war again if she impressed again: and there has been no impressment since. Near forty years without a case! when we were not as many days, oftentimes, without cases before, and of the most insulting and outrageous nature. The spirit and patriotism of the people in furnishing the supplies, volunteering for the service, and standing to the contest in the general wreck of the finances and the currency, without regard to their own losses—and the heroic courage of the army and navy, and of the militia and volunteers, made the war successful and glorious in spite of empty treasuries; and extorted from a proud empire that security in point of fact which diplomacy could not obtain as a treaty stipulation. And it was well. Since, and now, and henceforth, we hold exemption from impressment as we hold our independence—by right, and by might—and now want the treaty acknowledgment of no nation on either point. But the glorious termination of the war did not cure the evil of a ruined currency and defective finances, nor render less impressive the financial lesson which it taught. A return to the currency of the constitution—to the hard-money government which our fathers gave us—no connection with banks—no bank paper for federal uses—the establishment of an independent treasury for the federal government; this was the financial lesson which the war taught. The new generation into whose hands the working of the government fell during the THIRTY YEARS, eventually availed themselves of that lesson:—with what effect, the state of the country since, unprecedentedly prosperous; the state of the currency, never deranged; of the federal treasury, never polluted with "unavailable funds," and constantly crammed to repletion with solid gold; the issue of the Mexican war, carried on triumphantly without a national bank, and with the public securities constantly above par—sufficiently proclaim. No other tongue but these results is necessary to show the value of that financial lesson, taught us by the war of 1812.

2. The establishment of the second national bank grew out of this war. The failure of the local banks was enough to prove the necessity of a national currency, and the re-establishment of a national bank was the accepted remedy. No one seemed to think of the currency of the constitution—especially of that gold currency upon which the business of the world had been carried on from the beginning of the world, and by empires whose expenses for a week were equal to those of the United States for a year, and which the framers of the constitution had so carefully secured and guarded for their country. A national bank was the only remedy thought of. Its constitutionality was believed by some to have been vindicated by the events of the war. Its expediency was generally admitted. The whole argument turned upon the word "necessary," as used in the grant of implied powers at the end of the enumeration of powers expressly granted to Congress; and this *necessity* was affirmed and denied on each side at the time of the establishment of the first national bank, with a firmness and steadiness which showed that these fathers of the constitution knew that the whole field of argument lay there. Washington's queries to his cabinet went to that point; the close reasoning of Hamilton and Jefferson turned upon it. And it is worthy of note, in order to show how much war has to do with the working of government, and the trying of its powers, that the strongest illustration used by General Hamilton, and the one, perhaps, which turned the question in Washington's mind, was the state of the Indian war in the Northwest, then just become a charge upon the new federal government, and beginning to assume the serious character which it afterward attained. To carry on war at that time, with such Indians as were then, supported by the British traders, themselves countenanced by their government, at such a distance in the wilderness, and by the young federal government, was a severe trial upon the finances of the federal treasury, as well as upon the courage and discipline of the troops; and General Hamilton, the head of the treasury, argued that with the aid of a national bank, the war would be better and more successfully conducted: and, therefore, that it was "*necessary*."

and might be established as a means of executing a granted power, to wit, the power of making war. That war terminated well; and the bank having been established in the mean time, got the credit of having furnished its "sinews." The war of 1812 languished under the state of the finances and the currency, no national bank existing; and this want seemed to all to be the cause of its difficulties, and to show the necessity for a bank. The second national bank was then established—many of its old, most able, and conscientious opponents giving in to it, Mr. Madison at their head. Thus the question of a national bank again grew up—grew up out of the events of the war—and was decided against the strict construction of the constitution—to the weakening of a principle which was fundamental in the working of the government, and to the damage of the party which stood upon the doctrine of a strict construction of the constitution. But in the course of the "Thirty Years" of which it is proposed to take a "View," some of the younger generation became impressed with the belief that the constitutional currency had not had a fair trial in that war of 1812! that, in fact, it had had no trial at all! that it was not even in the field! not even present at the time when it was supposed to have failed! and that it was entitled to a trial before it was condemned. That trial has been obtained The second national bank was left to expire upon its own limitation. The gold currency and the independent treasury were established. The Mexican war tried them. They triumphed. And thus a national bank was shown to be "unnecessary," and therefore unconstitutional. And thus a great question of constitutional construction, and of party division, three times decided by the events of war, and twice against the constitution and the strict constructionists, was decided the last time in their favor; and is entitled to stand, being the last, and the only one in which the constitutional currency had a trial.

3. The protection of American industry, as a substantive object, independent of the object of revenue, was a third question growing out of the war. Its incidental protection, under the revenue clause in the constitution, had been always acknowledged, and granted; but protection as a substantive object was a new question growing out of the state of things produced by the war. Domestic manufactures had taken root and grown up during the non-importation periods of the embargo, and of hostilities with Great Britain, and under the temporary double duties which ensued the war, and which were laid for revenue. They had grown up to be a large interest, and a new one, classing in importance after agriculture and commerce. The want of articles necessary to national defence, and of others essential to individual comfort—then neither imported nor made at home—had been felt during the interruption of commerce occasioned by the war; and the advantage of a domestic supply was brought home to the conviction of the public mind. The question of protection for the sake of protection was brought forward, and carried (in the year 1816); and very unequivocally in the *minimum* provision in relation to duties on cotton goods. This reversed the old course of legislation—made protection the object instead of the incident, and revenue the incident instead of the object; and was another instance of constitutional construction being made dependent, not upon its own words but upon extrinsic, accidental and transient circumstances. It introduced a new and a large question of constitutional law, and of national expediency, fraught with many and great consequences, which fell upon the period of the THIRTY YEARS' VIEW to settle, or to grapple with.

4. The question of internal improvement within the States, by the federal government, took a new and large development after the war. The want of facilities of transportation had been felt in our military operations. Roads were bad, and canals few; and the question of their construction became a prominent topic in Congress common turnpike roads—for railways had not then been invented, nor had MacAdam yet given his name to the class of roads which has since borne it. The power was claimed as an incident to the granted powers—as a means of doing what was authorized—as a means of accomplishing an end: and the word "necessary" at the end of the enumerated powers, was the phrase in which this incidental power was claimed to have been found. It was the same derivation which was found for the creation of a national bank, and involved very nearly the same division of parties. It greatly complicated the national legislation from 1820 to 1850, bringing the two parts of our double system of government—State

and Federal—into serious disagreement, and threatening to compromise their harmonious action. Grappled with by a strong hand, it seemed at one time to have been settled, and consistently with the rights of the States; but sometimes returns to vex the deliberations of Congress. To territories the question did not extend. They have no political rights under the constitution, and are governed by Congress according to its discretion, under that clause which authorizes it to "dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." The improvement of rivers and harbors, was a branch of the internal improvement question, but resting on a different clause in the constitution—the commercial and revenue clause—and became complex and difficult from its extension to small and local objects. The party of strict construction contend for its restriction to national objects—rivers of national character, and harbors yielding revenue.

5. The boundaries between the treaty-making and the legislative departments of the government, became a subject of examination after the war, and gave rise to questions deeply affecting the working of these two departments. A treaty is the supreme law of the land, and as such it becomes obligatory on the House of Representatives to vote the money which it stipulates, and to co-operate in forming the laws necessary to carry it into effect. That is the broad proposition. The qualification is in the question whether the treaty is confined to the business of the treaty-making power? to the subjects which fall under its jurisdiction? and does not encroach upon the legislative power of Congress? This is the qualification, and a vital one: for if the President and Senate, by a treaty with a foreign power, or a tribe of Indians, could exercise ordinary legislation, and make it supreme, a double injury would have been done, and to the prejudice of that branch of the government which lies closest to the people, and emanates most directly from them. Confinement to their separate jurisdictions is the duty of each; but if encroachments take place, which is to judge? If the President and Senate invade the legislative field of Congress, which is to judge? or who is to judge between them? or is each to judge for itself? The House of Representatives, and the Senate in its legislative capacity, but especially the House, as the great constitutional depository of the legislative power, becomes its natural guardian and defender, and is entitled to deference, in the event of a difference of opinion between the two branches of the government. The discussions in Congress between 1815 and 1820 greatly elucidated this question; and while leaving unimpugned the obligation of the House to carry into effect a treaty duly made by the President and Senate within the limits of the treaty making power—upon matters subject to treaty regulation—yet it belongs to the House to judge when these limits have been transcended, and to preserve inviolate the field of legislation which the constitution has intrusted to the immediate representatives of the people.

6. The doctrine of secession—the right of a State, or a combination of States, to withdraw from the Union, was born of that war. It was repugnant to the New England States, and opposed by them, not with arms, but with argument and remonstrance, and refusal to vote supplies. They had a convention, famous under the name of Hartford, to which the design of secession was imputed. That design was never avowed by the convention, or authentically admitted by any leading member; nor is it the intent of this reference to decide upon the fact of that design. The only intent is to show that the existence of that convention raised the question of secession, and presented the first instance of the greatest danger in the working of the double form of our government—that of a collision between a part of the States and the federal government. This question, and this danger, first arose then—grew out of the war of 1812—and were hushed by its sudden termination; but they have reappeared in a different quarter, and will come in to swell the objects of the THIRTY YEARS' VIEW. At the time of its first appearance the right of secession was repulsed and repudiated by the democracy generally, and in a large degree by the federal party—the difference between a UNION and a LEAGUE being better understood at that time when so many of the fathers of the new government were still alive. The leading language in respect to it south of the Potomac was, that no State had a right to withdraw from the Union—that it required the same power to dissolve as to form the Union—and that any attempt to

dissolve it, or to obstruct the action of constitutional laws, was treason. If, since that time, political parties and sectional localities, have exchanged attitudes on this question, it cannot alter the question of right, and may receive some interest from the development of causes which produce such changes. Secession, a question of speculation during the war of 1812, has become a practical question (almost) during the THIRTY YEARS; and thus far has been "compromised," not settled.

7. Slavery agitation took its rise during this time (1819–'20), in the form of attempted restriction on the State of Missouri—a prohibition to hold slaves, to be placed upon her as a condition of her admission into the Union, and to be binding upon her afterwards. This agitation came from the North, and under a federal lead, and soon swept both parties into its vortex. It was quieted, so far as that form of the question was concerned, by admitting the State without restriction, and imposing it on the remainder of the Louisiana territory north and west of that State, and above the parallel of 36 degrees, 30 minutes; which is the prolongation of the southern boundary line of Virginia and Kentucky. This was called a "compromise," and was all clear gain to the antislavery side of the question, and was done under the lead of the united slave state vote in the Senate, the majority of that vote in the House of Representatives, and the undivided sanction of a Southern administration. It was a Southern measure, and divided free and slave soil far more favorably to the North than the ordinance of 1787. That divided about equally: this of 1820 gave about all to the North. It abolished slavery over an immense extent of territory where it might then legally exist, over nearly the whole of Louisiana, left it only in Florida and Arkansas territory, and opened no new territory to its existence. It was an immense concession to the non-slaveholding States; but the genius of slavery agitation was not laid. It reappeared, and under different forms, first from the North, in the shape of petitions to Congress to influence legislation on the subject; then from the South, as a means of exciting one half the Union against the other, and laying the foundation for a Southern confederacy. With this new question, in all its forms, the men of the new generation have had to grapple for the whole period of the "Thirty Years."

8. The war had created a debt, which, added to a balance of that of the Revolution, the purchase of Louisiana, and some other items, still amounted to ninety-two millions of dollars at the period of the commencement of this "View;" and the problem was to be solved, whether a national debt could be paid and extinguished in a season of peace, leaving a nation wholly free from that encumbrance; or whether it was to go on increasing, a burthen in itself, and absorbing with its interest and changes an annual portion of the public revenues. That problem was solved, contrary to the experience of the world, and the debt paid; and the practical benefit added to the moral, of a corresponding reduction in the public taxes.

9. Public distress was a prominent feature of the times to be embraced in this PRELIMINARY VIEW. The Bank of the United States was chartered in 1816, and before 1820 had performed one of its cycles of delusive and bubble prosperity, followed by actual and wide-spread calamity. The whole paper system, of which it was the head and the citadel, after a vast expansion, had suddenly collapsed, spreading desolation over the land, and carrying ruin to debtors. The years 1819 and '20 were a period of gloom and agony. No money, either gold or silver: no paper convertible into specie: no measure, or standard of value, left remaining. The local banks (all but those of New England), after a brief resumption of specie payments, again sank into a state of suspension. The Bank of the United States, created as a remedy for all those evils, now at the head of the evil, prostrate and helpless, with no power left but that of suing its debtors, and selling their property, and purchasing for itself at its own nominal price. No price for property, or produce. No sales but those of the sheriff and the marshal. No purchasers at execution sales but the creditor, or some hoarder of money. No employment for industry—no demand for labor—no sale for the product of the farm—no sound of the hammer, but that of the auctioneer, knocking down property. Stop laws—property laws—replevin laws—stay laws—loan office laws—the intervention of the legislator between the creditor and the debtor: this was the business of legislation in three-fourths of the States of the Union—of all south and west of New England. No medium of exchange but depreciated paper: no change even, but

little bits of foul paper, marked so many cents, and signed by some tradesman, barber, or innkeeper: exchanges deranged to the extent of fifty or one hundred per cent. DISTRESS, the universal cry of the people: RELIEF, the universal demand thundered at the doors of all legislatures, State and federal. It was at the moment when this distress had reached its maximum—1820–'21—and had come with its accumulated force upon the machine of the federal government, that this "VIEW" of its working begins. It is a doleful starting point, and may furnish great matter for contrast, or comparison, at its concluding period in 1850.

Such were some of the questions growing out of the war of 1812, or immediately ensuing its termination. That war brought some difficulties to the new generation, but also great advantages, at the head of them the elevation of the national character throughout the world. It immensely elevated the national character, and, as a consequence, put an end to insults and outrages to which we had been subject. No more impressments: no more searching our ships: no more killing: no more carrying off to be forced to serve on British ships against their own country. The national flag became respected. It became the Ægis of those who were under it. The national character appeared in a new light abroad. We were no longer considered as a people so addicted to commerce as to be insensible to insult: and we reaped all the advantages, social, political, commercial, of this auspicious change. It was a war necessary to the honor and interest of the United States, and was bravely fought, and honorably concluded, and makes a proud era in our history. I was not in public life at the time it was declared, but have understood from those who were, that, except for the exertions of two men (Mr. Monroe in the Cabinet, and Mr. Clay in Congress), the declaration of war could not have been obtained. Honor to their memories!

THIRTY YEARS' VIEW.

CHAPTER I.

PERSONAL ASPECT OF THE GOVERNMENT.

All the departments of the government appeared to great advantage in the personal character of their administrators at the time of my arrival as Senator at Washington. Mr. Monroe was President; Governor Tompkins, Vice-President; Mr. John Quincy Adams, Secretary of State; Mr. William H. Crawford, Secretary of the Treasury; Mr. John C. Calhoun, Secretary at War; Mr. Smith Thompson, of New-York, Secretary of the Navy; Mr. John McLean, Postmaster General; William Wirt, Esq., Attorney General. These constituted the Executive Department, and it would be difficult to find in any government, in any country, at any time, more talent and experience, more dignity and decorum, more purity of private life, a larger mass of information, and more addiction to business, than was comprised in this list of celebrated names. The legislative department was equally impressive. The Senate presented a long list of eminent men who had become known by their services in the federal or State governments, and some of them connected with its earliest history. From New-York there were Mr. Rufus King and Nathan Sanford; from Massachusetts, Mr. Harrison Gray Otis; from North Carolina, Mr. Macon and Governor Stokes; from Virginia, the two Governors, James Barbour and James Pleasants; from South Carolina, Mr. John Gaillard, so often and so long President, *pro tempore*, of the Senate, and Judge William Smith; from Rhode Island, Mr. William Hunter; from Kentucky, Colonel Richard M. Johnson; from Louisiana, Mr. James Brown and Governor Henry Johnson; from Maryland, Mr. William Pinkney and Governor Edward Lloyd from New Jersey, Mr. Samuel L. Southard; Colonel John Williams, of Tennessee; William R. King and Judge Walker, from Alabama; and many others of later date, afterwards becoming eminent, and who will be noted in their places. In the House of Representatives there was a great array of distinguished and of business talent. Mr. Clay, Mr. Randolph, Mr. Lowndes were there. Mr. Henry Baldwin and Mr. John Sergeant, from Pennsylvania; Mr. John W. Taylor, Speaker, and Henry Storrs, from New-York; Dr. Eustis, of revolutionary memory, and Nathaniel Silsbee, of Massachusetts; Mr. Louis McLane, from Delaware; General Samuel Smith, from Maryland; Mr. William S. Archer, Mr. Philip P. Barbour, General John Floyd, General Alexander Smythe, Mr. John Tyler, Charles Fenton Mercer, George Tucker, from Virginia; Mr. Lewis Williams, who entered the House young, and remained long enough to be called its "Father," Thomas H. Hall, Weldon N. Edwards, Governor Hutchins G. Burton, from North Carolina; Governor Earle and Mr. Charles Pinckney, from South Carolina; Mr. Thomas W. Cobb and Governor George Gilmer, from Georgia; Messrs. Richard C. Anderson, Jr., David Trimble, George Robertson, Benjamin Hardin, and Governor Metcalfe, from Kentucky; Mr. John Rhea, of revolutionary service, Governor Newton Cannon, Francis Jones, General John Cocke, from Tennessee; Messrs. John W. Campbell, John Sloan and Henry Bush, from Ohio; Mr. William Hendricks, from Indiana; Thomas Butler, from Louisiana; Daniel P. Cook, from Illinois; John Crowell, from Alabama; Mr. Christopher Rankin, from Mississippi; and a great many other business men of worth and character from the

different States, constituting a national representation of great weight, efficiency and decorum. The Supreme Court was still presided over by Chief Justice Marshall, almost septuagenarian, and still in the vigor of his intellect, associated with Mr. Justice Story, Mr. Justice Johnson, of South Carolina, Mr. Justice Duval, and Mr. Justice Washington, of Virginia. Thus all the departments, and all the branches of the government, were ably and decorously filled, and the friends of popular representative institutions might contemplate their administration with pride and pleasure, and challenge their comparison with any government in the world.

CHAPTER II.

ADMISSION OF THE STATE OF MISSOURI.

This was the exciting and agitating question of the session of 1820–'21. The question of restriction, that is, of prescribing the abolition of slavery within her limits, had been "compromised" the session before, by agreeing to admit the State without restriction, and abolishing it in all the remainder of the province of Louisiana, north and west of the State of Missouri, and north of the parallel of 36 degrees, 30 minutes. This "compromise" was the work of the South, sustained by the united voice of Mr. Monroe's cabinet, the united voices of the Southern senators, and a majority of the Southern representatives. The unanimity of the cabinet has been shown, impliedly, by a letter of Mr. Monroe, and positively by the Diary of Mr. John Quincy Adams. The unanimity of the slave States in the Senate, where the measure originated, is shown by its journal, not on the motion to insert the section constituting the compromise (for on that motion the yeas and nays were not taken), but on the motion to strike it out, when they were taken, and showed 30 votes for the compromise, and 15 against it—every one of the latter from non-slaveholding States—the former comprehending every slave State vote present, and a few from the North. As the constitutionality of this compromise, and its binding force, have, in these latter times, begun to be disputed, it is well to give the list of the senators names voting for it, that it may be seen that they were men of judgment and weight, able to know what the constitution was, and not apt to violate it. They were Governor Barbour and Governor Pleasants, of Virginia; Mr. James Brown and Governor Henry Johnson, of Louisiana; Governor Edwards and Judge Jesse B. Thomas, of Illinois; Mr. Elliott and Mr. Walker, of Georgia; Mr. Gaillard, President, *pro tempore*, of the Senate and Judge William Smith, from South Carolina Messrs. Horsey and Van Dyke, of Delaware; Colonel Richard M. Johnson and Judge Logan, from Kentucky; Mr. William R. King, since Vice-President of the United States, and Judge John W. Walker, from Alabama; Messrs. Leake and Thomas H. Williams, of Mississippi; Governor Edward Lloyd, and the great jurist and orator, William Pinkney, from Maryland; Mr. Macon and Governor Stokes, from North Carolina; Messrs. Walter Lowrie and Jonathan Roberts, from Pennsylvania; Mr. Noble and Judge Taylor, from Indiana; Mr. Palmer, from Vermont; Mr. Parrott, from New Hampshire. This was the vote of the Senate for the compromise. In the House, there was some division among Southern members; but the whole vote in favor of it was 134, to 42 in the negative—the latter comprising some Northern members, as the former did a majority of the Southern—among them one whose opinion had a weight never exceeded by that of any other American statesman, William Lowndes, of South Carolina. This array of names shows the Missouri compromise to have been a Southern measure, and the event put the seal upon that character by showing it to be acceptable to the South. But it had not allayed the Northern feeling against an increase of slave States, then openly avowed to be a question of political power between the two sections of the Union. The State of Missouri made her constitution, sanctioning slavery, and forbidding the legislature to interfere with it. This prohibition, not usual in State constitutions, was the effect of the Missouri controversy and of foreign interference, and was adopted for the sake of peace—for the sake of internal tranquillity—and to prevent the agitation of the slave question, which could only be accomplished by excluding it wholly from the forum of elections and legislation. I was myself the instigator of that prohibition, and the cause of its being put into the constitution—though not a member of

the convention—being equally opposed to slavery agitation and to slavery extension. There was also a clause in it, authorizing the legislature to prohibit the emigration of free people of color into the State; and this clause was laid hold of in Congress to resist the admission of the State. It was treated as a breach of that clause in the federal constitution, which guarantees equal privileges in all the States to the citizens of every State, of which privileges the right of emigration was one; and free people of color being admitted to citizenship in some of the States, this prohibition of emigration was held to be a violation of that privilege in their persons. But the real point of objection was the slavery clause, and the existence of slavery in the State, which it sanctioned, and seemed to perpetuate. The constitution of the State, and her application for admission, was presented by her late delegate and representative elect, Mr. John Scott; and on his motion, was referred to a select committee. Mr. Lowndes, of South Carolina, Mr. John Sergeant, of Pennsylvania, and General Samuel Smith, of Maryland, were appointed the committee; and the majority being from slave States, a resolution was quickly reported in favor of the admission of the State. But the majority of the House being the other way, the resolution was rejected, 79 to 83—and by a clear slavery and anti-slavery vote, the exceptions being but three, and they on the side of admission, and contrary to the sentiment of their own State. They were Mr. Henry Shaw, of Massachusetts, and General Bloomfield and Mr. Bernard Smith, of New-Jersey. In the Senate, the application of the State shared a similar fate. The constitution was referred to a committee of three, Messrs. Judge William Smith, of South Carolina, Mr. James Burrill, of Rhode Island, and Mr. Macon, of North Carolina, a majority of whom being from slave States, a resolution of admission was reported, and passed the Senate—Messrs. Chandler and Holmes of Maine, voting with the friends of admission; but was rejected in the House of Representatives. A second resolution to the same effect passed the Senate, and was again rejected in the House. A motion was then made in the House by Mr. Clay to raise a committee to act jointly with any committee which might be appointed by the Senate, "to consider and report to the Senate and the House respectively, whether it be expedient or not, to make provision for the admission of Missouri into the Union on the same footing as the original States, and for the due execution of the laws of the United States within Missouri? and if not, whether any other, and what provision adapted to her actual condition ought to be made by law." This motion was adopted by a majority of nearly two to one—101 to 55—which shows a large vote in its favor from the non-slaveholding States. Twenty-three, being a number equal to the number of the States, were then appointed on the part of the House, and were: Messrs. Clay, Thomas W. Cobb, of Georgia; Mark Langdon Hill, of Massachusetts; Philip P. Barbour, of Virginia; Henry R. Storrs, of New-York; John Cocke, of Tennessee, Christopher Rankin, of Mississippi; William S. Archer, of Virginia; William Brown, of Kentucky; Samuel Eddy, from Rhode Island; William D. Ford, of New-York; William Culbreth, Aaron Hackley, of New-York; Samuel Moore, of Pennsylvania, James Stevens, of Connecticut; Thomas J. Rogers, from Pennsylvania; Henry Southard, of New-Jersey; John Randolph; James S. Smith, of North Carolina; William Darlington, of Pennsylvania; Nathaniel Pitcher, of New-York; John Sloan, of Ohio, and Henry Baldwin, of Pennsylvania. The Senate by a vote almost unanimous—29 to 7—agreed to the joint committee proposed by the House of Representatives; and Messrs. John Holmes, of Maine; James Barbour, of Virginia; Jonathan Roberts, of Pennsylvania; David L. Morril, of New-Hampshire; Samuel L. Southard, of New-Jersey; Colonel Richard M. Johnson, of Kentucky; and Rufus King, of New-York, to be a committee on its part. The joint committee acted, and soon reported a resolution in favor of the admission of the State, upon the condition that her legislature should first declare that the clause in her constitution relative to the free colored emigration into the State, should never be construed to authorize the passage of any act by which any citizen of either of the States of the Union should be excluded from the enjoyment of any privilege to which he may be entitled under the constitution of the United States; and the President of the United States being furnished with a copy of said act, should, by proclamation, declare the State to be admitted. This resolution was passed in the House by a close vote—86 to 82—several members from

non-slaveholding States voting for it. In the Senate it was passed by two to one—28 to 14; and the required declaration having been soon made by the General Assembly of Missouri, and communicated to the President, his proclamation was issued accordingly, and the State admitted. And thus ended the "Missouri controversy," or that form of the slavery question which undertook to restrict a State from the privilege of having slaves if she chose. The question itself, under other forms, has survived, and still survives, but not under the formidable aspect which it wore during that controversy, when it divided Congress geographically, and upon the slave line. The real struggle was political, and for the balance of power, as frankly declared by Mr. Rufus King, who disdained dissimulation; and in that struggle the non-slaveholding States, though defeated in the State of Missouri, were successful in producing the "compromise," conceived and passed as a Southern measure. The resistance made to the admission of the State on account of the clause in relation to free people of color, was only a mask to the real cause of opposition, and has since shown to be so by the facility with which many States, then voting in a body against the admission of Missouri on that account, now exclude the whole class of the free colored emigrant population from their borders, and without question, by statute, or by constitutional amendment. For a while this formidable Missouri question threatened the total overthrow of all political parties upon principle, and the substitution of geographical parties discriminated by the slave line, and of course destroying the just and proper action of the federal government, and leading eventually to a separation of the States. It was a federal movement, accruing to the benefit of that party, and at first was overwhelming, sweeping all the Northern democracy into its current, and giving the supremacy to their adversaries. When this effect was perceived the Northern democracy became alarmed, and only wanted a turn or abatement in the popular feeling at home, to take the first opportunity to get rid of the question by admitting the State, and re-establishing party lines upon the basis of political principle. This was the decided feeling when I arrived at Washington, and many of the old Northern democracy took early opportunities to declare themselves to me to that effect, and showed that they were ready to vote the admission of the State in any form which would answer the purpose, and save themselves from going so far as to lose their own States, and give the ascendant to their political adversaries. In the Senate, Messrs. Lowrie and Roberts, from Pennsylvania; Messrs. Morril and Parrott, from New-Hampshire; Messrs. Chandler and Holmes, from Maine; Mr. William Hunter, from Rhode Island; and Mr. Southard, from New-Jersey, were of that class; and I cannot refrain from classing with them Messrs. Horsey and Vandyke, from Delaware, which, though counted as a slave State, yet from its isolated and salient position, and small number of slaves, seems more justly to belong to the other side. In the House the vote of nearly two to one in favor of Mr. Clay's resolution for a joint committee, and his being allowed to make out his own list of the House committee (for it was well known that he drew up the list of names himself, and distributed it through the House to be voted), sufficiently attest the temper of that body, and showed the determination of the great majority to have the question settled. Mr. Clay has been often complimented as the author of the "compromise" of 1820, in spite of his repeated declaration to the contrary, that measure coming from the Senate; but he is the undisputed author of the final settlement of the Missouri controversy in the actual admission of the State. He had many valuable coadjutors from the North—Baldwin, of Pennsylvania; Storrs and Meigs, of New-York; Shaw, of Massachusetts: and he had also some opponents from the South—members refusing to vote for the "conditional" admission of the State, holding her to be entitled to absolute admission—among them Mr. Randolph. I have been minute in stating this controversy, and its settlement, deeming it advantageous to the public interest that history and posterity should see it in the proper point of view; and that it was a political movement for the balance of power, balked by the Northern democracy, who saw their own overthrow, and the eventual separation of the States, in the establishment of geographical parties divided by a slavery and anti-slavery line.

CHAPTER III.

FINANCES.—REDUCTION OF THE ARMY.

THE distress of the country became that of the government. Small as the government expenditure then was, only about twenty-one millions of dollars (including eleven millions for permanent or incidental objects), it was still too great for the revenues of the government at this disastrous period. Reductions of expense, and loans, became the resort, and economy—that virtuous policy in all times—became the obligatory and the forced policy of this time. The small regular army was the first, and the largest object on which the reduction fell. Small as it was, it was reduced nearly one-half—from 10,000 to 6,000 men. The navy felt it next—the annual appropriation of one million for its increase being reduced to half a million. The construction and armament of fortifications underwent the like process. Reductions of expense took place at many other points, and even the abolition of a clerkship of $800 in the office of the Attorney General, was not deemed an object below the economical attention of Congress. After all a loan became indispensable, and the President was authorized to borrow five millions of dollars. The sum of twenty-one millions then to be raised for the service of the government, small as it now appears, was more than double the amount required for the actual expenses of the government—for the actual expense of its administration, or the working its machinery. More than half went to permanent or incidental objects, to wit: principal and interest of the public debt, five and a half millions; gradual increase of the navy, one million; pensions, one and a half millions; fortifications, $800,000; arms, munitions, ordnance, and other small items, about two millions; making in the whole about eleven millions, and leaving for the expense of keeping the machinery of government in operation, about ten millions of dollars; and which was reduced to less than nine millions after the reductions of this year were effected. A sum of one million of dollars, over and above the estimated expenditure of the government, was always deemed necessary to be provided and left in the treasury to meet contingencies—a sum which, though small in itself, was absolutely unnecessary for that purpose, and the necessity for which was founded in the mistaken idea that the government expends every year, within the year, the amount of its income. This is entirely fallacious, and never did and never can take place; for a large portion of the government payments accruing within the latter quarters of any year are not paid until the next year. And so on in every quarter of every year. The sums becoming payable in each quarter being in many instances, and from the nature of the service, only paid in the next quarter, while new revenue is coming in. This process regularly going on always leaves a balance in the treasury at the end of the year, not called for until the beginning of the next year, and when there is a receipt of money to meet the demand, even if there had been no balance in hand. Thus, at the end of the year 1820, one of the greatest depression, and when demands pressed most rapidly upon the treasury, there was a balance of above two millions of dollars in the treasury—to be precise, $2,076,607 14, being one-tenth of the annual revenue. In prosperous years the balance is still larger, sometimes amounting to the fourth, or the fifth of the annual revenue; as may be seen in the successive annual reports of the finances. There is, therefore, no necessity to provide for keeping any balance as a reserve in the treasury, though in later times this provision has been carried up to six millions—a mistake which economy, the science of administration, and the purity of the government, requires to be corrected.

CHAPTER IV.

RELIEF OF PUBLIC LAND DEBTORS.

DISTRESS was the cry of the day; relief the general demand. State legislatures were occupied in devising measures of local relief; Congress in granting it to national debtors. Among these was the great and prominent class of the public land purchasers. The credit system then prevailed, and the debt to the government had

accumulated to twenty-three millions of dollars —a large sum in itself, but enormous when considered in reference to the payors, only a small proportion of the population, and they chiefly the inhabitants of the new States and territories, whose resources were few. Their situation was deplorable. A heavy debt to pay, and lands already partly paid for to be forfeited if full payment was not made. The system was this: the land was sold at a minimum price of two dollars per acre, one payment in hand and the remainder in four annual instalments, with forfeiture of all that had been paid if each successive instalment was not delivered to the day. In the eagerness to procure fresh lands, and stimulated by the delusive prosperity which multitudes of banks created after the war, there was no limit to purchasers except in the ability to make the first payment. That being accomplished, it was left to the future to provide for the remainder. The banks failed; money vanished; instalments were becoming due which could not be met; and the opening of Congress in November, 1820, was saluted by the arrival of memorials from all the new States, showing the distress, and praying relief to the purchasers of the public lands. The President, in his annual message to Congress, deemed it his duty to bring the subject before that body, and in doing so recommended indulgence in consideration of the unfavorable change which had occurred since the sales. Both Houses of Congress took up the subject, and a measure of relief was devised by the Secretary of the Treasury, Mr. Crawford, which was equally desirable both to the purchaser and the government. The principle of the relief was to change all future sales from the credit to the cash system, and to reduce the minimum price of the lands to one dollar, twenty-five cents per acre, and to give all present debtors the benefit of that system, by allowing them to consolidate payments already made on different tracts on any particular one, relinquishing the rest; and allowing a discount for ready pay on all that had been entered, equal to the difference between the former and present minimum price. This released the purchasers from debt, and the government from the inconvenient relation of creditor to its own citizens. A debt of twenty-three millions of dollars was quietly got rid of, and purchasers were enabled to save lands, at the reduced price, to the amount of their payments already made: and thus saved in all cases their homes and fields, and as much more of their purchases as they were able to pay for at the reduced rate. It was an equitable arrangement of a difficult subject, and lacked but two features to make it perfect; *first*, a pre-emptive right to all first settlers; and, *secondly*, a periodical reduction of price according to the length of time the land should have been in market, so as to allow of different prices for different qualities, and to accomplish in a reasonable time the sale of the whole. Applications were made at that time for the establishment of the pre-emptive system; but without effect, and, apparently without the prospect of eventual success. Not even a report of a committee could be got in its favor—nothing more than temporary provisions, as special favors, in particular circumstances. But perseverance was successful. The new States continued to press the question, and finally prevailed; and now the pre-emptive principle has become a fixed part of our land system, permanently incorporated with it, and to the equal advantage of the settler and the government. The settler gets a choice home in a new country, due to his enterprise, courage, hardships and privations in subduing the wilderness: the government gets a body of cultivators whose labor gives value to the surrounding public lands, and whose courage and patriotism volunteers for the public defence whenever it is necessary. The second, or graduation principle, though much pressed, has not yet been established, but its justice and policy are self-evident, and the exertions to procure it should not be intermitted until successful. The passage of this land relief bill was attended by incidents which showed the delicacy of members at that time, in voting on questions in which they might be interested. Many members of Congress were among the public land debtors, and entitled to the relief to be granted. One of their number, Senator William Smith, from South Carolina, brought the point before the Senate on a motion to be excused from voting on account of his interest. The motion to excuse was rejected, on the ground that his interest was general, in common with the country, and not particular, in relation to himself: and that his constituents were entitled to the benefit of his vote.

CHAPTER V.

OREGON TERRITORY.

THE session of 1820–21 is remarkable as being the first at which any proposition was made in Congress for the occupation and settlement of our territory on the Columbia River—the only part then owned by the United States on the Pacific coast. It was made by Dr. Floyd, a representative from Virginia, an ardent man, of great ability, and decision of character, and, from an early residence in Kentucky, strongly imbued with western feelings. He took up this subject with the energy which belonged to him, and it required not only energy, but courage, to embrace a subject which, at that time, seemed more likely to bring ridicule than credit to its advocate. I had written and published some essays on the subject the year before, which he had read. Two gentlemen (Mr. Ramsay Crooks, of New-York, and Mr. Russell Farnham, of Massachusetts), who had been in the employment of Mr. John Jacob Astor in founding his colony of Astoria, and carrying on the fur trade on the northwest coast of America, were at Washington that winter, and had their quarters at the same hotel (Brown's), where Dr. Floyd and I had ours. Their acquaintance was naturally made by Western men like us—in fact, I knew them before; and their conversation, rich in information upon a new and interesting country, was eagerly devoured by the ardent spirit of Floyd. He resolved to bring forward the question of occupation, and did so. He moved for a select committee to consider and report upon the subject. The committee was granted by the House, more through courtesy to a respected member, than with any view to business results. It was a committee of three, himself chairman, according to parliamentary rule, and Thomas Metcalfe, of Kentucky (since Governor of the State), and Thomas V. Swearingen, from Western Virginia, for his associates—both like himself ardent men, and strong in western feeling. They reported a bill within six days after the committee was raised, "to authorize the occupation of the Columbia River, and to regulate trade and intercourse with the Indian tribes thereon," accompanied by an elaborate report, replete with valuable statistics, in support of the measure. The fur trade, the Asiatic trade, and the preservation of our own territory, were the advantages proposed. The bill was treated with the parliamentary courtesy which respect for the committee required: it was read twice, and committed to a committee of the whole House for the next day—most of the members not considering it a serious proceeding. Nothing further was done in the House that session, but the first blow was struck: public attention was awakened, and the geographical, historical, and statistical facts set forth in the report, made a lodgment in the public mind which promised eventual favorable consideration. I had not been admitted to my seat in the Senate at the time, but was soon after, and quickly came to the support of Dr. Floyd's measure (who continued to pursue it with zeal and ability); and at a subsequent session presented some views on the subject which will bear reproduction at this time. The danger of a contest with Great Britain, to whom we had admitted a joint possession, and who had already taken possession, was strongly suggested, if we delayed longer our own occupation; "and a vigorous effort of policy, and perhaps of arms, might be necessary to break her hold." Unauthorized, or individual occupation was intimated as a consequence of government neglect, and what has since taken place was foreshadowed in this sentence: "mere adventurers may enter upon it, as Æneas entered upon the Tiber, and as our forefathers came upon the Potomac, the Delaware and the Hudson, and renew the phenomenon of individuals laying the foundation of a future empire." The effect upon Asia of the arrival of an American population on the coast of the Pacific Ocean was thus exhibited: "Upon the people of Eastern Asia the establishment of a civilized power on the opposite coast of America, could not fail to produce great and wonderful benefits. Science, liberal principles in government, and the true religion, might cast their lights across the intervening sea. The valley of the Columbia might become the granary of China and Japan, and an outlet to their imprisoned and exuberant population. The inhabitants of the oldest and the newest, the most despotic and the freest governments, would become the neighbors, and the friends of each other. To my mind the proposition is clear, that Eastern Asia and the two Americas, as they become neighbors should become friends

and I for one had as lief see American ministers going to the emperors of China and Japan, to the king of Persia, and even to the Grand Turk, as to see them dancing attendance upon those European legitimates who hold every thing American in contempt and detestation." Thus I spoke; and this I believe was the first time that a suggestion for sending ministers to the Oriental nations was publicly made in the United States. It was then a "wild" suggestion: it is now history. Besides the preservation of our own territory on the Pacific, the establishment of a port there for the shelter of our commercial and military marine, the protection of the fur trade and aid to the whaling vessels, the accomplishment of Mr. Jefferson's idea of a commercial communication with Asia through the heart of our own continent, was constantly insisted upon as a consequence of planting an American colony at the mouth of the Columbia. That man of large and useful ideas—that statesman who could conceive measures useful to all mankind, and in all time to come—was the first to propose that commercial communication, and may also be considered the first discoverer of the Columbia River. His philosophic mind told him that where a snow-clad mountain, like that of the Rocky Mountains, shed the waters on one side which collected into such a river as the Missouri, there must be a corresponding shedding and collection of waters on the other; and thus he was perfectly assured of the existence of a river where the Columbia has since been found to be, although no navigator had seen its mouth, and no explorer trod its banks. His conviction was complete; but the idea was too grand and useful to be permitted to rest in speculation. He was then minister to France, and the famous traveller Ledyard, having arrived at Paris on his expedition of discovery to the Nile, was prevailed upon by Mr. Jefferson to enter upon a fresher and more useful field of discovery. He proposed to him to change his theatre from the Old to the New World, and, proceeding to St. Petersburg upon a passport he would obtain for him, he should there obtain permission from the Empress Catharine to traverse her dominions in a high northern latitude to their eastern extremity—cross the sea from Kamschatka, or at Behring's Straits, and descending the northwest coast of America, come down upon the river which must head opposite the head of the Missouri, ascend it to its source in the Rocky Mountains, and then follow the Missouri to the French settlements on the Upper Mississippi; and thence home. It was a magnificent and a daring project of discovery, and on that account the more captivating to the ardent spirit of Ledyard. He undertook it—went to St. Petersburg—received the permission of the Empress—and had arrived in Siberia when he was overtaken by a revocation of the permission, and conducted as a spy out of the country. He then returned to Paris, and resumed his original design of that exploration of the Nile to its sources which terminated in his premature death, and deprived the world of a young and adventurous explorer, from whose ardour, courage, perseverance and genius, great and useful results were to have been expected. Mr. Jefferson was balked in that, his first attempt, to establish the existence of the Columbia River. But a time was coming for him to undertake it under better auspices. He became President of the United States, and in that character projected the expedition of Lewis and Clark, obtained the sanction of Congress, and sent them forth to discover the head and course of the river (whose mouth was then known), for the double purpose of opening an inland commercial communication with Asia, and enlarging the boundaries of geographical science. The commercial object was placed first in his message, and as the object to legitimate the expedition. And thus Mr. Jefferson was the first to propose the North American road to India, and the introduction of Asiatic trade on that road; and all that I myself have either said or written on that subject from the year 1819, when I first took it up, down to the present day when I still contend for it, is nothing but the fruit of the seed planted in my mind by the philosophic hand of Mr. Jefferson. Honor to all those who shall assist in accomplishing his great idea.

CHAPTER VI.

FLORIDA TREATY AND CESSION OF TEXAS.

I was a member of the bar at St. Louis, in the then territory of Missouri, in the year 1818,

when the Washington City newspapers made known the progress of that treaty with Spain, which was signed on the 22d day of February following, and which, in acquiring Florida, gave away Texas. I was shocked at it—at the cession of Texas, and the new boundaries proposed for the United States on the southwest. The acquisition of Florida was a desirable object, long sought, and sure to be obtained in the progress of events; but the new boundaries, besides cutting off Texas, dismembered the valley of the Mississippi, mutilated two of its noblest rivers, brought a foreign dominion (and it non-slaveholding), to the neighborhood of New Orleans, and established a wilderness barrier between Missouri and New Mexico—to interrupt their trade, separate their inhabitants, and shelter the wild Indian depredators upon the lives and property of all who undertook to pass from one to the other. I was not then in politics, and had nothing to do with political affairs; but I saw at once the whole evil of this great sacrifice, and instantly raised my voice against it in articles published in the St. Louis newspapers, and in which were given, in advance, all the national reasons against giving away the country, which were afterwards, and by so many tongues, and at the expense of war and a hundred millions, given to get it back. I denounced the treaty, and attacked its authors and their motives, and imprecated a woe on the heads of those who should continue to favor it. "The magnificent valley of the Mississippi is ours, with all its fountains, springs and floods; and woe to the statesman who shall undertake to surrender one drop of its water, one inch of its soil, to any foreign power." In these terms I spoke, and in this spirit I wrote, before the treaty was even ratified. Mr. John Quincy Adams, the Secretary of State, negotiator and ostensible author of the treaty, was the statesman against whom my censure was directed, and I was certainly sincere in my belief of his great culpability. But the declaration which he afterwards made on the floor of the House, absolved him from censure on account of that treaty, and placed the blame on the majority in Mr. Monroe's cabinet, southern men, by whose vote he had been governed in ceding Texas and fixing the boundary which I so much condemned. After this authoritative declaration, I made, in my place in the Senate, the honorable amends to Mr. Adams, which was equally due to him and to myself. The treaty was signed on the anniversary of the birth-day of Washington, and sent to the Senate the same day, and unanimously ratified on the next day, with the general approbation of the country, and the warm applause of the newspaper press. This unanimity of the Senate, and applause of the press, made no impression upon me. I continued to assail the treaty and its authors, and the more bitterly, because the official correspondence, when published, showed that this great sacrifice of territory, rivers, and proper boundaries, was all gratuitous and voluntary on our part—"*that the Spanish government had offered us more than we accepted;*" and that it was our policy, and not hers, which had deprived us of Texas and the large country, in addition to Texas, which lay between the Red River and Upper Arkansas. This was an enigma, the solution of which, in my mind, strongly connected itself with the Missouri controversy then raging (1819) with its greatest violence, threatening existing political parties with subversion, and the Union with dissolution. My mind went there—to that controversy—for the solution, but with a misdirection of its application. I blamed the northern men in Mr. Monroe's cabinet: the private papers of General Jackson, which have come to my hands, enable me to correct that error, and give me an inside view of that which I could only see on the outside before. In a private letter from Mr. Monroe to General Jackson, dated at Washington, May 22d, 1820—more than one year after the negotiation of the treaty, written to justify it, and evidently called out by Mr. Clay's attack upon it—are these passages: "Having long known the repugnance with which the eastern portion of our Union, or rather some of those who have enjoyed its confidence (for I do not think that the people themselves have any interest or wish of that kind), have seen its aggrandizement to the West and South, I have been decidedly of opinion that we ought to be content with Florida for the present, and until the public opinion in that quarter shall be reconciled to any further change. I mention these circumstances to show you that our difficulties are not with Spain alone, but are likewise internal, proceeding from various causes, which certain men are prompt to seize and turn to the account of their own ambitious views." This paragraph

from Mr. Monroe's letter lifts the curtain which concealed the secret reason for ceding Texas—that secret which explains what was incomprehensible—our having refused to accept as much as Spain had offered. Internal difficulties, it was thus shown, had induced that refusal; and these difficulties grew out of the repugnance of leading men in the northeast to see the further aggrandizement of the Union upon the South and West. This repugnance was then taking an operative form in the shape of the Missouri controversy; and, as an immediate consequence, threatened the subversion of political party lines, and the introduction of the slavery question into the federal elections and legislation, and bringing into the highest of those elections—those of President and Vice-President—a test which no southern candidate could stand. The repugnance in the northeast was not merely to territorial aggrandizement in the southwest, but to the consequent extension of slavery in that quarter; and to allay that repugnance, and to prevent the slavery extension question from becoming a test in the presidential election, was the true reason for giving away Texas, and the true solution of the enigma involved in the strange refusal to accept as much as Spain offered. The treaty was disapproved by Mr. Jefferson, to whom a similar letter was written to that sent to General Jackson, and for the same purpose—to obtain his approbation; but he who had acquired Louisiana, and justly gloried in the act, could not bear to see that noble province mutilated, and returned his dissent to the act, and his condemnation of the policy on which it was done. General Jackson had yielded to the arguments of Mr. Monroe, and consented to the cession of Texas as a temporary measure. The words of his answer to Mr. Monroe's letter were: "I am clearly of your opinion, that, for the present, we ought to be contented with the Floridas." But Mr. Jefferson would yield to no temporary views of policy, and remained inflexibly opposed to the treaty; and in this he was consistent with his own conduct in similar circumstances. Sixteen years before, he had been in the same circumstances—at the time of the acquisition of Louisiana—when he had the same repugnance to southwestern aggrandizement to contend with, and the same bait (Florida) to tempt him. Then eastern men raised the same objections; and as early as August 1803—only four months after the purchase of Louisiana—he wrote to Dr. Breckenridge: "Objections are raising to the eastward to the vast extent of our boundaries, and propositions are made to exchange Louisiana, or a part of it, for the Floridas; but as I have said, we shall get the Floridas without; and I would not give one inch of the waters of the Mississippi to any foreign nation." So that Mr. Jefferson, neither in 1803 nor in 1819, would have mutilated Louisiana to obtain the cession of Florida, which he knew would be obtained without that mutilation; nor would he have yielded to the threatening discontent in the east. I have a gratification that, without knowing it, and at a thousand miles from him, I took the same ground that Mr. Jefferson stood on, and even used his own words: "Not an inch of the waters of the Mississippi to any nation." But I was mortified at the time, that not a paper in the United States backed my essays. It was my first experience in standing "solitary and alone;" but I stood it without flinching, and even incurred the imputation of being opposed to the administration—had to encounter that objection in my first election to the Senate, and was even viewed as an opponent by Mr. Monroe himself, when I first came to Washington. He had reason to know before his office expired, and still more after it expired, that no one (of the young generation) had a more exalted opinion of his honesty, patriotism, firmness and general soundness of judgment; or would be more ready, whenever the occasion permitted, to do justice to his long and illustrious career of public service. The treaty, as I have said, was promptly and unanimously ratified by the American Senate; not so on the part of Spain. She hesitated, delayed, procrastinated; and finally suffered the time limited for the exchange of ratifications to expire, without having gone through that indispensable formality. Of course this put an end to the treaty, unless it could be revived; and, thereupon, new negotiations and vehement expostulations against the conduct which refused to ratify a treaty negotiated upon full powers and in conformity to instructions. It was in the course of this renewed negotiation, and of these warm expostulations, that Mr. Adams used the strong expressions to the Spanish ministry, so enigmatical at the time, "That Spain had offered more than we accepted, and that she dare not deny

it." Finally, after the lapse of a year or so, the treaty was ratified by Spain. In the mean time Mr. Clay had made a movement against it in the House of Representatives, unsuccessful, of course, but exciting some sensation, both for the reasons he gave and the vote of some thirty-odd members who concurred with him. This movement very certainly induced the letters of Mr. Monroe to General Jackson and Mr. Jefferson, as they were contemporaneous (May, 1820), and also some expressions in the letter to General Jackson, which evidently referred to Mr. Clay's movement. The ratification of Spain was given October, 1820, and being after the time limited, it became necessary to submit it again to the American Senate, which was done at the session of 1820–21. It was ratified again, and almost unanimously, but not quite, four votes being given against it, and all by western senators, namely: Colonel Richard M. Johnson, of Kentucky; Colonel John Williams, of Tennessee; Mr. James Brown, of Louisiana, and Colonel Trimble, of Ohio. I was then in Washington, and a senator elect, though not yet entitled to a seat, in consequence of the delayed admission of the new State of Missouri into the Union, and so had no opportunity to record my vote against the treaty. But the progress of events soon gave me an opportunity to manifest my opposition, and to appear in the parliamentary history as an enemy to it. The case was this: While the treaty was still encountering Spanish procrastination in the delay of exchanging ratifications, Mexico (to which the amputated part of Louisiana and the whole of Texas was to be attached), itself ceased to belong to Spain. She established her independence, repulsed all Spanish authority, and remained at war with the mother country. The law for giving effect to the treaty by providing for commissioners to run and mark the new boundary, had not been passed at the time of the ratification of the treaty; it came up after I took my seat, and was opposed by me. I opposed it, not only upon the grounds of original objections to the treaty, but on the further and obvious ground, that the revolution in Mexico—her actual independence—had superseded the Spanish treaty in the whole article of the boundaries, and that it was with Mexico herself that we should now settle them. The act was passed, however, by a sweeping majority, the administration being for it, and senators holding themselves committed by previous votes; but the progress of events soon justified my opposition to it. The country being in possession of Mexico, and she at war with Spain, no Spanish commissioners could go there to join ours in executing it; and so the act remained a dead letter upon the statute-book. Its futility was afterwards acknowledged by our government, and the misstep corrected by establishing the boundary with Mexico herself. This was done by treaty in the year 1828, adopting the boundaries previously agreed upon with Spain, and consequently amputating our rivers (the Red and the Arkansas), and dismembering the valley of the Mississippi, to the same extent as was done by the Spanish treaty of 1819. I opposed the ratification of the treaty with Mexico for the same reason that I opposed its original with Spain, but without success. Only two senators voted with me, namely, Judge William Smith, of South Carolina, and Mr. Powhatan Ellis, of Mississippi. Thus I saw this treaty, which repulsed Texas, and dismembered the valley of the Mississippi—which placed a foreign dominion on the upper halves of the Red River and the Arkansas—placed a foreign power and a wilderness between Missouri and New Mexico, and which brought a non-slaveholding empire to the boundary line of the State of Louisiana, and almost to the southwest corner of Missouri—saw this treaty three times ratified by the American Senate, as good as unanimously every time, and with the hearty concurrence of the American press. Yet I remained in the Senate to see, within a few years, a political tempest sweeping the land and overturning all that stood before it, to get back this very country which this treaty had given away; and menacing the Union itself with dissolution, if it was not immediately done, and without regard to consequences. But of this hereafter. The point to be now noted of this treaty of 1819, is, that it completed, very nearly, the extinction of slave territory within the limits of the United States, and that it was the work of southern men, with the sanction of the South. It extinguished or cut off the slave territory beyond the Mississippi, below 36 degrees, 30 minutes, all except the diagram in Arkansas, which was soon to become a State. The Missouri compromise line had interdicted slavery in all the vast expanse of Louisiana north of 36

degrees, 30 minutes; this treaty gave away, first to Spain, and then to Mexico, nearly all the slave territory south of that line; and what little was left by the Spanish treaty was assigned in perpetuity by laws and by treaties to different Indian tribes. These treaties (Indian and Spanish), together with the Missouri compromise line—a measure contemporaneous with the treaty—extinguished slave soil in all the United States territory west of the Mississippi, except in the diagram which was to constitute the State of Arkansas; and, including the extinction in Texas consequent upon its cession to a non-slaveholding power, constituted the largest territorial abolition of slavery that was ever effected by the political power of any nation. The ordinance of 1787 had previously extinguished slavery in all the northwest territory—all the country east of the Mississippi, above the Ohio, and out to the great lakes; so that, at this moment—era of the second election of Mr. Monroe—slave soil, except in Arkansas and Florida, was extinct in the territory of the United States. The growth of slave States (except of Arkansas and Florida) was stopped; the increase of free States was permitted in all the vast expanse from Lake Michigan and the Mississippi River to the Rocky Mountains, and to Oregon; and there was not a ripple of discontent visible on the surface of the public mind at this mighty transformation of slave into free territory. No talk then about dissolving the Union, if every citizen was not allowed to go with all his "property," that is, all his slaves, to all the territory acquired by the "common blood and treasure" of all the Union. But this belongs to the chapter of 1844, whereof I have the material to write the true and secret history, and hope to use it with fairness, with justice, and with moderation. The outside view of the slave question in the United States at this time, which any chronicler can write, is, that the extension of slavery was then arrested, circumscribed, and confined within narrow territorial limits, while free States were permitted an almost unlimited expansion. That is the outside view; the inside is, that all this was the work of southern men, candidates for the presidency, some in abeyance, some in *præsenti*, and all yielding to that repugnance to territorial aggrandizement, and slavery extension in the southwest, which Mr. Monroe mentioned in his letter to General Jackson as the "internal difficulty" which occasioned the cession of Texas to Spain. This chapter is a point in the history of the times which will require to be understood by all who wish to understand and appreciate the events and actors of twenty years later.

CHAPTER VII.

DEATH OF MR. LOWNDES.

I HAD but a slight acquaintance with Mr. Lowndes. He resigned his place on account of declining health soon after I came into Congress; but all that I saw of him confirmed the impression of the exalted character which the public voice had ascribed to him. Virtue, modesty, benevolence, patriotism were the qualities of his heart; a sound judgment, a mild persuasive elocution were the attributes of his mind; his manners gentle, natural, cordial, and inexpressibly engaging. He was one of the galaxy, as it was well called, of the brilliant young men which South Carolina sent to the House of Representatives at the beginning of the war of 1812—Calhoun, Cheves, Lowndes;—and was soon the brightest star in that constellation. He was one of those members, rare in all assemblies, who, when he spoke, had a cluster around him, not of friends, but of the House—members quitting their distant seats, and gathering up close about him, and showing by their attention, that each one would feel it a personal loss to have missed a word that he said. It was the attention of affectionate confidence. He imparted to others the harmony of his own feelings, and was the moderator as well as the leader of the House and was followed by its sentiment in all cases in which inexorable party feeling, or some powerful interest, did not rule the action of the members; and even then he was courteously and deferentially treated. It was so the only time I ever heard him speak—session of 1820–21—and on the inflammable subject of the admission of the State of Missouri—a question on which the inflamed passions left no room for the influence of reason and judgment, and in which the members voted by a geographical line. Mr. Lowndes was of the democratic school, and strongly indi

cated for an early elevation to the presidency—indicated by the public will and judgment, and not by any machinery of individual or party management—from the approach of which he shrunk, as from the touch of contamination. He was nominated by the legislature of his native State for the election of 1824; but died before the event came round. It was he who expressed that sentiment, so just and beautiful in itself, and so becoming in him because in him it was true, "That the presidency was an office neither to be sought, nor declined." He died at the age of forty-two; and his death at that early age, and in the impending circumstances of the country, was felt by those who knew him as a public and national calamity. I do not write biographies, but note the death and character of some eminent deceased contemporaries, whose fame belongs to the country, and goes to make up its own title to the respect of the world.

CHAPTER VIII.

DEATH OF WILLIAM PINKNEY.

He died at Washington during the session of the Congress of which he was a member, and of the Supreme Court of which he was a practitioner. He fell like the warrior, in the plenitude of his strength, and on the field of his fame—under the double labors of the Supreme Court and of the Senate, and under the immense concentration of thought which he gave to the preparation of his speeches. He was considered in his day the first of American orators, but will hardly keep that place with posterity, because he spoke more to the hearer than to the reader—to the present than to the absent—and avoided the careful publication of his own speeches. He labored them hard, but it was for the effect of their delivery, and the triumph of present victory. He loved the admiration of the crowded gallery—the trumpet-tongued fame which went forth from the forum—the victory which crowned the effort; but avoided the publication of what was received with so much applause, giving as a reason that the published speech would not sustain the renown of the delivered one. His *forte* as a speaker lay in his judgment, his logic, his power of argument; but, like many other men of acknowledged pre-eminence in some great gift of nature, and who are still ambitious of some inferior gift, he courted his imagination too much, and laid too much stress upon action and delivery—so potent upon the small circle of actual hearers, but so lost upon the national audience which the press now gives to a great speaker. In other respects Mr. Pinkney was truly a great orator, rich in his material, strong in his argument—clear, natural and regular in the exposition of his subject, comprehensive in his views, and chaste in his diction. His speeches, both senatorial and forensic, were fully studied and laboriously prepared—all the argumentative parts carefully digested under appropriate heads, and the showy passages often fully written out and committed to memory. He would not speak at all except upon preparation; and at sexagenarian age—that at which I knew him—was a model of study and of labor to all young men. His last speech in the Senate was in reply to Mr. Rufus King, on the Missouri question, and was the master effort of his life. The subject, the place, the audience, the antagonist, were all such as to excite him to the utmost exertion. The subject was a national controversy convulsing the Union and menacing it with dissolution; the place was the American Senate; the audience was Europe and America; the antagonist was Princeps Senatus, illustrious for thirty years of diplomatic and senatorial service, and for great dignity of life and character. He had ample time for preparation, and availed himself of it. Mr. King had spoken the session before, and published the "Substance" of his speeches (for there were two of them), after the adjournment of Congress. They were the signal guns for the Missouri controversy. It was to these published speeches that Mr. Pinkney replied, and with the interval between two sessions to prepare. It was a dazzling and overpowering reply, with the prestige of having the union and the harmony of the States for its object, and crowded with rich material. The most brilliant part of it was a highly-wrought and splendid amplification (with illustrations from Greek and Roman history), of that passage in Mr. Burke's speech upon "Conciliation with the Colonies," in which, and in looking to the elements of American resistance to British power, he looks to the spirit

of the slaveholding colonies as a main ingredient, and attributes to the masters of slaves, who are not themselves slaves, the highest love of liberty and the most difficult task of subjection. It was the most gorgeous speech ever delivered in the Senate, and the most applauded; but it was only a magnificent exhibition, as Mr. Pinkney knew, and could not sustain in the reading the plaudits it received in delivery; and therefore he avoided its publication. He gave but little attention to the current business of the Senate, only appearing in his place when the "Salaminian galley was to be launched," or some special occasion called him—giving his time and labor to the bar, where his pride and glory was. He had previously served in the House of Representatives, and his first speech there was attended by an incident illustrative of Mr. Randolph's talent for delicate intimation, and his punctilious sense of parliamentary etiquette. Mr. Pinkney came into the House with a national reputation, in the fulness of his fame, and exciting a great expectation—which he was obliged to fulfil. He spoke on the treaty-making power—a question of diplomatic and constitutional law; and he having been minister to half the courts of Europe, attorney general of the United States, and a jurist by profession, could only speak upon it in one way—as a great master of the subject; and, consequently, appeared as if instructing the House. Mr. Randolph—a veteran of twenty years' parliamentary service—thought a new member should serve a little apprenticeship before he became an instructor, and wished to signify that to Mr. Pinkney. He had a gift, such as man never had, at a delicate intimation where he desired to give a hint, without offence; and he displayed it on this occasion. He replied to Mr. Pinkney, referring to him by the parliamentary designation of "the member from Maryland;" and then pausing, as if not certain, added, "I believe he is from Maryland." This implied doubt as to where he came from, and consequently as to who he was, amused Mr. Pinkney, who understood it perfectly, and taking it right, went over to Mr. Randolph's seat, introduced himself, and assured him that he was "from Maryland." They became close friends for ever after; and it was Mr. Randolph who first made known his death in the House of Representatives, interrupting for that purpose an angry debate, then raging, with a beautiful and apt quotation from the quarrel of Adam and Eve at their expulsion from paradise. The published debates give this account of it: "Mr. Randolph rose to announce to the House an event which he hoped would put an end, at least for this day, to all further jar or collision, here or elsewhere, among the members of this body. Yes, for this one day, at least, let us say, as our first mother said to our first father—

> 'While yet we live, scarce one short hour perhaps,
> Between us two let there be peace.'

"I rise to announce to the House the not unlooked for death of a man who filled the first place in the public estimation, in the first profession in that estimation, in this or in any other country. We have been talking of General Jackson, and a greater than him is, not here, but gone for ever. I allude, sir, to the boast of Maryland, and the pride of the United States—the pride of all of us, but more particularly the pride and ornament of the profession of which you, Mr. Speaker (Mr. Philip P. Barbour), are a member, and an eminent one."

Mr. Pinkney was kind and affable in his temper, free from every taint of envy or jealousy, conscious of his powers, and relying upon them alone for success. He was a model, as I have already said, and it will bear repetition, to all young men in his habits of study and application, and at more than sixty years of age was still a severe student. In politics he classed democratically, and was one of the few of our eminent public men who never seemed to think of the presidency. Oratory was his glory, the law his profession, the bar his theatre; and his service in Congress was only a brief episode, dazzling each House, for he was a momentary member of each, with a single and splendid speech.

CHAPTER IX.

ABOLITION OF THE INDIAN FACTORY SYSTEM.

The experience of the Indian factory system, is an illustration of the unfitness of the federal government to carry on any system of trade, the liability of the benevolent designs of the gov-

ernment to be abused, and the difficulty of detecting and redressing abuses in the management of our Indian affairs. This system originated in the year 1796, under the recommendation of President Washington, and was intended to counteract the influence of the British traders, then allowed to trade with the Indians of the United States within our limits; also to protect the Indians from impositions from our own traders, and for that purpose to sell them goods at cost and carriage, and receive their furs and peltries at fair and liberal prices; and which being sold on account of the United States, would defray the expenses of the establishment, and preserve the capital undiminished—to be returned to the treasury at the end of the experiment. The goods were purchased at the expense of the United States—the superintendent and factors were paid out of the treasury, and the whole system was to be one of favor and benevolence to the Indians, guarded by the usual amount of bonds and oaths prescribed by custom in such cases. Being an experiment, it was first established by a temporary act, limited to two years—the usual way in which equivocal measures get a foothold in legislation. It was soon suspected that this system did not work as disinterestedly as had been expected—that it was of no benefit to the Indians—no counteraction to British traders—an injury to our own fur trade—and a loss to the United States; and many attempts were made to get rid of it, but in vain. It was kept up by continued temporary renewals for a quarter of a century—from 1796 to 1822—the name of Washington being always invoked to continue abuses which he would have been the first to repress and punish. As a citizen of a frontier State, I had seen the working of the system—seen its inside working, and knew its operation to be entirely contrary to the benevolent designs of its projectors. I communicated all this, soon after my admission to a seat in the Senate, to Mr. Calhoun, the Secretary at War, to whose department the supervision of this branch of service belonged, and proposed to him the abolition of the system; but he had too good an opinion of the superintendent (then Mr. Thomas L. McKinney), to believe that any thing was wrong in the business, and refused his countenance to my proposition. Confident that I was right, I determined to bring the question before the Senate—did so—brought in a bill to abolish the factories, and throw open the fur trade to individual enterprise, and supported the bill with all the facts and reasons of which I was master. The bill was carried through both Houses, and became a law; but not without the strenuous opposition which the attack of every abuse for ever encounters—not that any member favored the abuse, but that those interested in it were vigilant and active, visiting the members who would permit such visits, furnishing them with adverse statements, lauding the operation of the system, and constantly lugging in the name of Washington as its author. When the system was closed up, and the inside of it seen, and the balance struck, it was found how true all the representations were which had been made against it. The Indians had been imposed upon in the quality and prices of the goods sold them; a general trade had been carried on with the whites as well as with the Indians; large per centums had been charged upon every thing sold; and the total capital of three hundred thousand dollars was lost and gone. It was a loss which, at that time (1822), was considered large, but now (1850) would be considered small; but its history still has its uses, in showing how differently from its theory a well intended act may operate—how long the Indians and the government may be cheated without knowing it—and how difficult it is to get a bad law discontinued (where there is an interest in keeping it up), even though first adopted as a temporary measure, and as a mere experiment. It cost me a strenuous exertion—much labor in collecting facts, and much speaking in laying them before the Senate—to get this two years' law discontinued, after twenty-five years of injurious operation and costly experience. Of all the branches of our service, that of the Indian affairs is most liable to abuse, and its abuses the most difficult of detection.

CHAPTER X.

INTERNAL IMPROVEMENT.

THE Presidential election of 1824 was approaching, the candidates in the field, their respective friends active and busy, and popular topics for the canvass in earnest requisition. The

New-York canal had just been completed, and had brought great popularity to its principal advocate (De Witt Clinton), and excited a great appetite in public men for that kind of fame. Roads and canals—meaning common turnpike, for the steam car had not then been invented, nor McAdam impressed his name on the new class of roads which afterwards wore it—were all the vogue; and the candidates for the Presidency spread their sails upon the ocean of internal improvements. Congress was full of projects for different objects of improvement, and the friends of each candidate exerted themselves in rivalry of each other, under the supposition that their opinions would stand for those of their principals. Mr. Adams, Mr. Clay, and Mr. Calhoun, were the avowed advocates of the measure, going thoroughly for a general national system of internal improvement: Mr. Crawford and General Jackson, under limitations and qualifications. The Cumberland road, and the Chesapeake and Ohio canal, were the two prominent objects discussed; but the design extended to a general system, and an act was finally passed, intended to be annual and permanent, to appropriate $30,000 to make surveys of national routes. Mr. Monroe signed this bill as being merely for the collection of information, but the subject drew from him the most elaborate and thoroughly considered opinion upon the general question which has ever been delivered by any of our statesmen. It was drawn out by the passage of an act to provide for the preservation and repair of the Cumberland road, and was returned by him to the House in which it originated, with his objections, accompanied by a state paper, in exposition of his opinions upon the whole subject; for the whole subject was properly before him. The act which he had to consider, though modestly entitled for the "preservation" and "repair" of the Cumberland road, yet, in its mode of accomplishing that purpose, assumed the whole of the powers which were necessary to the execution of a general system. It passed with singular unanimity through both Houses, in the Senate, only seven votes against it, of which I afterwards felt proud to have been one. He denied the power; but before examining the arguments for and against it, very properly laid down the amount and variety of jurisdiction and authority which it would require the federal government to exercise within the States, in order to execute a system, and that in each and every part—in every mile of each and every canal road—it should undertake to construct. He began with acquiring the right of way, and pursued it to its results in the construction and preservation of the work, involving jurisdiction, ownership, penal laws, and administration. Commissioners, he said, must first be appointed to trace a route, and to acquire a right to the ground over which the road or canal was to pass, with a sufficient breadth for each. The ground could only be acquired by voluntary grants from individuals, or by purchases, or by condemnation of the property, and fixing its value through a jury of the vicinage, if they refused to give or sell, or demanded an exorbitant price. After all this was done, then came the repairs, the care of which was to be of perpetual duration, and of a kind to provide against criminal and wilful injuries, as well as against the damages of accident, and deterioration from time and use. There are persons in every community capable of committing voluntary injuries, of pulling down walls that are made to sustain the road; of breaking the bridges over water-courses, and breaking the road itself. Some living near it might be disappointed that it did not pass through their lands, and commit these acts of violence and waste from revenge. To prevent these crimes Congress must have a power to pass laws to punish the offenders, wherever they may be found. Jurisdiction over the road would not be sufficient, though it were exclusive. There must be power to follow the offenders wherever they might go. It would seldom happen that the parties would be detected in the act. They would generally commit it in the night, and fly far off before the sun appeared. Right of pursuit must attach, or the power of punishing become nugatory. Tribunals, State or federal, must be invested with power to execute the law. Wilful injuries would require all this assumption of power, and machinery of administration, to punish and prevent them. Repair of natural deteriorations would require the application of a different remedy. Toll gates, and persons to collect the tolls, were the usual resort for repairing this class of injuries, and keeping the road in order Congress must have power to make such an establishment, and to enact a code of regulations for it, with fines and penalties, and agents to execute it. To all these exercises of authority

the question of the constitutionality of the law may be raised by the prosecuted party. But opposition might not stop with individuals. States might contest the right of the federal government thus to possess and to manage all the great roads and canals within their limits; and then a collision would be brought on between two governments, each claiming to be sovereign and independent in its actions over the subject in dispute.

Thus did Mr. Monroe state the question in its practical bearings, traced to their legitimate results, and the various assumptions of power, and difficulties with States or individuals which they involved; and the bare statement which he made—the bare presentation of the practical working of the system, constituted a complete argument against it, as an invasion of State rights, and therefore unconsittutional, and, he might have added, as complex and unmanageable by the federal government, and therefore inexpedient. But, after stating the question, he examined it under every head of constitutional derivation under which its advocates claimed the power, and found it to be granted by no one of them, and virtually prohibited by some of them. These were, *first*, the right to establish post-offices and post-roads; *second*, to declare war; *third*, to regulate commerce among the States; *fourth*, the power to pay the debts and provide for the common defence and general welfare of the United States; *fifth*, to make all laws necessary and proper to carry into effect the granted (enumerated) powers; *sixth*, from the power to dispose of, and make all needful rules and regulations respecting the territory or other property of the United States. Upon this long enumeration of these claimed sources of power, Mr. Monroe well remarked that their very multiplicity was an argument against them, and that each one was repudiated by some of the advocates for each of the others: that these advocates could not agree among themselves upon any one single source of the power; and that it was sought for from place to place, with an assiduity which proclaimed its non-existence any where. Still he examined each head of derivation in its order, and effectually disposed of each in its turn. 1. The post-office and post-road grant. The word "establish" was the ruling term: roads and offices were the subjects on which it was to act. And how? Ask any number of enlightened citizens, who had no connection with public affairs, and whose minds were unprejudiced, what was the meaning of the word "establish," and the extent of the grant it controls, and there would not be a difference of opinion among them. They would answer that it was a power given to Congress to legalize existing roads as post routes, and existing places as post-offices—to fix on the towns, court-houses, and other places throughout the Union, at which there should be post-offices; the routes by which the mails should be carried; to fix the postages to be paid; and to protect the post-offices and mails from robbery, by punishing those who commit the offence. The idea of a right to lay off roads to take the soil from the proprietor against his will; to establish turnpikes and tolls; to establish a criminal code for the punishment of injuries to the road; to do what the protection and repair of a road requires: these are things which would never enter into his head. The use of the existing road would be all that would be thought of; the jurisdiction and soil remaining in the State, or in those authorized by its legislature to change the road at pleasure.

2. The war power. Mr. Monroe shows the object of this grant of power to the federal government—the terms of the grant itself—its incidents as enumerated in the constitution—the exclusion of constructive incidents—and the pervading interference with the soil and jurisdiction of the States which the assumption of the internal improvement power by Congress would carry along with it. He recites the grant of the power to make war, as given to Congress, and prohibited to the States, and enumerates the incidents granted along with it, and necessary to carrying on war: which are, to raise money by taxes, duties, excises, and by loans; to raise and support armies and a navy; to provide for calling out, arming, disciplining, and governing the militia, when in the service of the United States; establishing fortifications, and to exercise exclusive jurisdiction over the places granted by the State legislatures for the sites of forts, magazines, arsenals, dock-yards, and other needful buildings. And having shown this enumeration of incidents, he very naturally concludes that it is an exclusion of constructive incidents, and especially of one so great in itself, and so much interfering with the soil and jurisdiction of the States, as the federal exercise of the road-making power would

be. He exhibits the enormity of this interference by a view of the extensive field over which it would operate. The United States are exposed to invasion through the whole extent of their Atlantic coast (to which may now be added seventeen degrees of the Pacific coast) by any European power with whom we might be engaged in war: on the northern and northwestern frontier, on the side of Canada, by Great Britain, and on the southern by Spain, or any power in alliance with her. If internal improvements are to be carried on to the full extent to which they may be useful for military purposes, the power, as it exists, must apply to all the roads of the Union, there being no limitation to it. Wherever such improvements may facilitate the march of troops, the transportation of cannon, or otherwise aid the operations, or mitigate the calamities of war along the coast, or in the interior, they would be useful for military purposes, and might therefore be made. They must be coextensive with the Union. The power following as an incident to another power can be measured, as to its extent, by reference only to the obvious extent of the power to which it is incidental. It has been shown, after the most liberal construction of all the enumerated powers of the general government, that the territory within the limits of the respective States belonged to them; that the United States had no right, under the powers granted to them (with the exceptions specified), to any the smallest portion of territory within a State, all those powers operating on a different principle, and having their full effect without impairing, in the slightest degree, this territorial right in the States. By specifically granting the right, as to such small portions of territory as might be necessary for these purposes (forts, arsenals, magazines, dock-yards and other needful *buildings*), and, on certain conditions, minutely and well defined, it is manifest that it was not intended to grant it, as to any other portion, for any purpose, or in any manner whatever. The right of the general government must be complete, if a right at all. It must extend to every thing necessary to the enjoyment and protection of the right. It must extend to the seizure and condemnation of the property, if necessary; to the punishment of the offenders for injuries to the roads and canals; to the establishment and enforcement of tolls; to the unobstructed construction, protection, and preservation of the roads. It must be a complete right, to the extent above stated, or it will be of no avail. That right does not exist.

3. The commercial power. Mr. Monroe argues that the sense in which the power to regulate commerce was understood and exercised by the States, was doubtless that in which it was transferred to the United States; and then shows that their regulation of commerce was by the imposition of duties and imposts; and that it was so regulated by them (before the adoption of the constitution), equally in respect to each other, and to foreign powers. The goods, and the vessels employed in the trade, are the only subject of regulation. It can act on none other. He then shows the evil out of which that grant of power grew, and which evil was, in fact, the predominating cause in the call for the convention which framed the federal constitution. Each State had the right to lay duties and imposts, and exercised the right on narrow, jealous, and selfish principles. Instead of acting as a nation in regard to foreign powers, the States, individually, had commenced a system of restraint upon each other, whereby the interests of foreign powers were promoted at their expense. This contracted policy in some of the States was counteracted by others. Restraints were immediately laid on such commerce by the suffering States; and hence grew up a system of restrictions and retaliations, which destroyed the harmony of the States, and threatened the confederacy with dissolution. From this evil the new constitution relieved us; and the federal government, as successors to the States in the power to regulate commerce, immediately exercised it as they had done, by laying duties and imposts, to act upon goods and vessels: and that was the end of the power.

4. To pay the debts and provide for the common defence and general welfare of the Union. Mr. Monroe considers this "common defence" and "general welfare" clause as being no grant of power, but, in themselves, only an object and end to be attained by the exercise of the enumerated powers. They are found in that sense in the preamble to the constitution, in company with others, as inducing causes to the formation of the instrument, and as benefits to be obtained by the powers granted in it. They stand thus in the preamble: "In order to form a more perfect union, establish justice, insure domestic tran-

quillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution." These are the objects to be accomplished, but not by allowing Congress to do what it pleased to accomplish them (in which case there would have been no need for investing it with specific powers), but to be accomplished by the exercise of the powers granted in the body of the instrument. Considered as a distinct and separate grant, the power to provide for the 'common defence" and the "general welfare," or either of them, would give to Congress the command of the whole force, and of all the resources of the Union—absorbing in their transcendental power all other powers, and rendering all the grants and restrictions nugatory and vain. The idea of these words forming an original grant, with unlimited power, superseding every other grant, is (must be) abandoned. The government of the United States is a limited government, instituted for great national purposes, and for those only. Other interests are left to the States individually, whose duty it is to provide for them. Roads and canals fall into this class, the powers of the General Government being utterly incompetent to the exercise of the rights which their construction, and protection, and preservation require. Mr. Monroe examines the instances of roads made in territories, and through the Indian countries, and the one upon Spanish territory below the 31st degree of north latitude (with the consent of Spain), on the route from Athens in Georgia to New Orleans, before we acquired the Floridas; and shows that there was no objection to these territorial roads, being all of them, to the States, ex-territorial. He examines the case of the Cumberland road, made within the States, and upon compact, but in which the United States exercised no power, founded on any principle of "jurisdiction or right." He says of it: This road was founded on an article of compact between the United States and the State of Ohio, under which that State came into the Union, and by which the expense attending it was to be defrayed by the application of a certain portion of the money arising from the sales of the public lands within the State. And, in this instance, the United States have exercised no act of jurisdiction or sovereignty within either of the States through which the road runs, by taking the land from the proprietors by force—by passing acts for the protection of the road—or to raise a revenue from it by the establishment of turnpikes and tolls—or any other act founded on the principles of jurisdiction or right. And I can add, that the bill passed by Congress, and which received his veto, died under his veto message, and has never been revised, or attempted to be revised, since; and the road itself has been abandoned to the States.

5. The power to make all laws which shall be necessary and proper to carry into effect the powers specifically granted to Congress. This power, as being the one which chiefly gave rise to the latitudinarian constructions which discriminated parties, when parties were founded upon principle, is closely and clearly examined by Mr. Monroe, and shown to be no grant of power at all, nor authorizing Congress to do any thing which might not have been done without it, and only added to the enumerated powers, through caution, to secure their complete execution. He says: I have always considered this power as having been granted on a principle of greater caution, to secure the complete execution of all the powers which had been vested in the General Government. It contains no distinct and specific power, as every other grant does, such as to lay and collect taxes, to declare war, to regulate commerce, and the like. Looking to the whole scheme of the General Government, it gives to Congress authority to make all laws which should be deemed necessary and proper for carrying all its powers into effect. My impression has invariably been, that this power would have existed, substantially, if this grant had not been made. It results, by necessary implication (such is the tenor of the argument), from the granted powers, and was only added from caution, and to leave nothing to implication. To act under it, it must first be shown that the thing to be done is already specified in one of the enumerated powers. This is the point and substance of Mr. Monroe's opinion on this incidental grant, and which has been the source of division between parties from the foundation of the government—the fountain of latitudinous construction—and which, taking the judgment of Congress as the rule and measure of what was "necessary and proper" in legislation, takes a rule which puts an end to the limitations of the constitution, refers all the powers of the

body to its own discretion, and becomes as absorbing and transcendental in its scope as the "general welfare" and "common defence clauses" would be themselves.

6. The power to dispose of, and make all needful rules and regulations respecting the territory or other property of the United States. This clause, as a source of power for making roads and canals within a State, Mr. Monroe disposes of summarily, as having no relation whatever to the subject. It grew out of the cessions of territory which different States had made to the United States, and relates solely to that territory (and to such as has been acquired since the adoption of the constitution), and which lay without the limits of a State. Special provision was deemed necessary for such territory, the main powers of the constitution operating internally, not being applicable or adequate thereto; and it follows that this power gives no authority, and has even no bearing on the subject.

Such was this great state paper, delivered at a time when internal improvement by the federal government, having become an issue in the canvass for the Presidency, and ardently advocated by three of the candidates, and qualifiedly by two others, had an immense current in its favor, carrying many of the old strict constitutionists along with it. Mr. Monroe stood firm, vetoed the bill which assumed jurisdiction over the Cumberland road, and drew up his sentiments in full, for the consideration of Congress and the country. His argument is abridged and condensed in this view of it; but his positions and conclusions preserved in full, and with scrupulous correctness. And the whole paper, as an exposition of the differently understood parts of the constitution, by one among those most intimately acquainted with it, and as applicable to the whole question of constructive powers, deserves to be read and studied by every student of our constitutional law. The only point at which Mr. Monroe gave way, or yielded in the least, to the temper of the times, was in admitting the power of appropriation—the right of Congress to appropriate, but not to apply money—to internal improvements; and in that he yielded against his earlier, and, as I believe, better judgment. He had previously condemned the appropriation as well as the application, but finally yielded on this point to the counsels that beset him; but nugatorially, as appropriation without application was inoperative, and a balk to the whole system. But an act was passed soon after for surveys—for making surveys of routes for roads and canals of general and national importance, and the sum of $30,000 was appropriated for that purpose. The act was as carefully guarded as words could do so, in its limitation to objects of national importance, but only presented another to the innumerable instances of the impotency of words in securing the execution of a law. The selection of routes under the act, rapidly degenerated from national to sectional, from sectional to local, and from local to mere neighborhood improvements. Early in the succeeding administration, a list of some ninety routes were reported to Congress, from the Engineer Department, in which occurred names of places hardly heard of before outside of the State or section in which they were found. Saugatuck, Amounisuck, Pasumic, Winnispiseogee, Piscataqua, Titonic Falls, Lake Memphramagog, Conneaut Creek, Holmes' Hole, Lovejoy's Narrows, Steele's Ledge, Cowhegan, Androscoggin, Cobbiesconte, Ponceaupechaux, alias Soapy Joe, were among the objects which figured in the list for national improvement. The bare reading of the list was a condemnation of the act under which they were selected, and put an end to the annual appropriations which were in the course of being made for these surveys. No appropriation was made after the year 1827. Afterwards the veto message of President Jackson put an end to legislation upon local routes, and the progress of events has withdrawn the whole subject—the subject of a *system* of national internal improvement, once so formidable and engrossing in the public mind—from the halls of Congress, and the discussions of the people. Steamboats and steam-cars have superseded turnpikes and canals; individual enterprise has dispensed with national legislation. Hardly a great route exists in any State which is not occupied under State authority. Even great works accomplished by Congress, at vast cost and long and bitter debates in Congress, and deemed eminently national at the time, have lost that character, and sunk into the class of common routes. The Cumberland road, which cost $6,670,000 in money, and was a prominent subject in Congress for thirty-four years—from 1802, when it was conceived to 1836, when it was abandoned to the States: this road, once so ab-

sorbing both of public money and public attention, has degenerated into a common highway, and is entirely superseded by the parallel railroad route. The same may be said, in a less degree, of the Chesapeake and Ohio canal, once a national object of federal legislation intended, as its name imports, to connect the tide water of the Atlantic with the great rivers of the West; now a local canal, chiefly used by some companies, very beneficial in its place, but sunk from the national character which commanded for it the votes of Congress and large appropriations from the federal treasury. Mr. Monroe was one of the most cautious and deliberate of our public men, thoroughly acquainted with the theory and the working of the constitution, his opinions upon it entitled to great weight; and on this point (of internal improvement within the States by the federal government) his opinion has become law. But it does not touch the question of improving national rivers or harbors yielding revenue—appropriations for the Ohio and Mississippi and other large streams, being easily had when unincumbered with local objects, as shown by the appropriation, in a separate bill, in 1824, of $75,000 for the improvement of these two rivers, and which was approved and signed by Mr. Monroe.

CHAPTER XI.

GENERAL REMOVAL OF INDIANS.

The Indian tribes in the different sections of the Union, had experienced very different fates—in the northern and middle States nearly extinct—in the south and west they remained numerous and formidable. Before the war of 1812, with Great Britain, these southern and western tribes held vast, compact bodies of land in these States, preventing the expansion of the white settlements within their limits, and retaining a dangerous neighbor within their borders. The victories of General Jackson over the Creeks, and the territorial cessions which ensued made the first great breach in this vast Indian domain; but much remained to be done to free the southern and western States from a useless and dangerous population—to give them the use and jurisdiction of all the territory within their limits, and to place them, in that respect, on an equality with the northern and middle States. From the earliest periods of the colonial settlements, it had been the policy of the government, by successive purchases of their territory, to remove these tribes further and further to the west; and that policy, vigorously pursued after the war with Great Britain, had made much progress in freeing several of these States (Kentucky entirely, and Tennessee almost) from this population, which so greatly hindered the expansion of their settlements and so much checked the increase of their growth and strength. Still there remained up to the year 1824—the last year of Mr. Monroe's administration—large portions of many of these States, and of the territories, in the hands of the Indian tribes; in Georgia, nine and a half millions of acres; in Alabama, seven and a half millions; in Mississippi, fifteen and three quarter millions; in the territory of Florida, four millions; in the territory of Arkansas, fifteen and a half millions; in the State of Missouri, two millions and three quarters; in Indiana and Illinois, fifteen millions; and in Michigan, east of the lake, seven millions. All these States and territories were desirous, and most justly and naturally so, to get possession of these vast bodies of land, generally the best within their limits. Georgia held the United States bound by a compact to relieve her. Justice to the other States and territories required the same relief; and the applications to the federal government, to which the right of purchasing Indian lands, even within the States, exclusively belonged, were incessant and urgent. Piecemeal acquisitions, to end in getting the whole, were the constant effort; and it was evident that the encumbered States and territories would not, and certainly ought not to be satisfied, until all their soil was open to settlement, and subject to their jurisdiction. To the Indians themselves it was equally essential to be removed. The contact and pressure of the white race was fatal to them. They had dwindled under it, degenerated, become depraved, and whole tribes extinct, or reduced to a few individuals, wherever they attempted to remain in the old States; and could look for no other fate in the new ones.

"What," exclaimed Mr Elliott, senator from Georgia, in advocating a system of general removal—"what has become of the immense hordes of these people who once occupied the soil of the

older States? In New England, where numerous and warlike tribes once so fiercely contended for supremacy with our forefathers, but two thousand five hundred of their descendants remain, and they are dispirited and degraded. Of the powerful league of the Six Nations, so long the scourge and terror of New-York, only about five thousand souls remain. In New Jersey, Pennsylvania, and Maryland, the numerous and powerful tribes once seen there, are either extinct, or so reduced as to escape observation in any enumeration of the States' inhabitants. In Virginia, Mr. Jefferson informs us that there were at the commencement of its colonization (1607), in the comparatively small portion of her extent which lies between the sea-coast and the mountains, and from the Potomac to the most southern waters of James River, upwards of forty tribes of Indians: now there are but forty-seven individuals in the whole State! In North Carolina none are counted: in South Carolina only four hundred and fifty. While in Georgia, where thirty years since there were not less than thirty thousand souls, there now remain some fifteen thousand—the one half having disappeared in a single generation. That many of these people have removed, and others perished by the sword in the frequent wars which have occurred in the progress of our settlements, I am free to admit. But where are the hundreds of thousands, with their descendants, who neither removed, nor were thus destroyed? Sir, like a promontory of sand, exposed to the ceaseless encroachments of the ocean, they have been gradually wasting away before the current of the advancing white population which set in upon them from every quarter; and unless speedily removed beyond the influence of this cause, of the many tens of thousands now within the limits of the southern and western States, a remnant will not long be found to point you to the graves of their ancestors, or to relate the sad story of their disappearance from earth."

Mr. Jefferson, that statesman in fact as well as in name, that man of enlarged and comprehensive views, whose prerogative it was to foresee evils and provide against them, had long foreseen the evils both to the Indians and to the whites, in retaining any part of these tribes within our organized limits; and upon the first acquisition of Louisiana—within three months after the acquisition—proposed it for the future residence of all the tribes on the east of the Mississippi; and his plan had been acted upon in some degree, both by himself and his immediate successor. But it was reserved for Mr. Monroe's administration to take up the subject in its full sense, to move upon it as a system, and to accomplish at a single operation the removal of all the tribes from the east to the west side of the Mississippi—from the settled States and territories, to the wide and wild expanse of Louisiana. Their preservation and civilization, and permanency in their new possessions, were to be their advantages in this removal—delusive, it might be, but still a respite from impending destruction if they remained where they were. This comprehensive plan was advocated by Mr. Calhoun, then Secretary of War, and charged with the administration of Indian affairs. It was a plan of incalculable value to the southern and western States, but impracticable without the hearty concurrence of the northern and non-slaveholding States. It might awaken the slavery question, hardly got to sleep after the alarming agitations of the Missouri controversy. The States and territories to be relieved were slaveholding. To remove the Indians would make room for the spread of slaves. No removal could be effected without the double process of a treaty and an appropriation act—the treaty to be ratified by two thirds of the Senate, where the slave and free States were equal, and the appropriation to be obtained from Congress, where free States held the majority of members. It was evident that the execution of the whole plan was in the hands of the free States; and nobly did they do their duty by the South. Some societies, and some individuals, no doubt, with very humane motives, but with the folly, and blindness, and injury to the objects of their care which generally attend a gratuitous interference with the affairs of others, attempted to raise an outcry, and made themselves busy to frustrate the plan; but the free States themselves, in their federal action, and through the proper exponents of their will—their delegations in Congress—cordially concurred in it, and faithfully lent it a helping and efficient hand. The President, Mr. Monroe, in the session 1824-'25, recommended its adoption to Congress, and asked the necessary appropriation to begin from the Congress. A bill was reported in the Senate for that purpose, and unanimously passed that body. What is more,

the treaties made with the Kansas and Osage tribes in 1825, for the cession to the United States of all their vast territory west of Missouri and Arkansas, except small reserves to themselves, and which treaties had been made without previous authority from the government, and for the purpose of acquiring new homes for all the Indians east of the Mississippi, were duly and readily ratified. Those treaties were made at St. Louis by General Clarke, without any authority, so far as this large acquisition was concerned, at my instance, and upon my assurance that the Senate would ratify them. It was done. They were ratified: a great act of justice was rendered to the South. The foundation was laid for the future removal of the Indians, which was followed up by subsequent treaties and acts of Congress, until the southern and western States were as free as the northern from the incumbrance of an Indian population; and I, who was an actor in these transactions, who reported the bills and advocated the treaties which brought this great benefit to the south and west, and witnessed the cordial support of the members from the free States, without whose concurrence they could not have been passed—I, who wish for harmony and concord among all the States, and all the sections of this Union, owe it to the cause of truth and justice, and to the cultivation of fraternal feelings, to bear this faithful testimony to the just and liberal conduct of the non-slaveholding States, in relieving the southern and western States from so large an incumbrance, and aiding the extension of their settlement and cultivation. The recommendation of Mr. Monroe, and the treaties of 1825, were the beginning of the system of total removal; but it was a beginning which assured the success of the whole plan, and was followed up, as will be seen, in the history of each case, until the entire system was accomplished.

CHAPTER XII.

VISIT OF LAFAYETTE TO THE UNITED STATES.

In the summer of this year General Lafayette, accompanied by his son, Mr. George Washington Lafayette, and under an invitation from the President, revisited the United States after a lapse of forty years. He was received with unbounded honor, affection, and gratitude by the American people. To the survivors of the Revolution, it was the return of a brother; to the new generation, born since that time, it was the apparition of an historical character, familiar from the cradle; and combining all the titles to love, admiration, gratitude, enthusiasm, which could act upon the heart and the imagination of the young and the ardent. He visited every State in the Union, doubled in number since, as the friend and pupil of Washington, he had spilt his blood, and lavished his fortune, for their independence. His progress through the States was a triumphal procession, such as no Roman ever led up—a procession not through a city, but over a continent—followed, not by captives in chains of iron, but by a nation in the bonds of affection. To him it was an unexpected and overpowering reception. His modest estimate of himself had not allowed him to suppose that he was to electrify a continent. He expected kindness, but not enthusiasm. He expected to meet with surviving friends—not to rouse a young generation. As he approached the harbor of New-York, he made inquiry of some acquaintance to know whether he could find a hack to convey him to a hotel? Illustrious man, and modest as illustrious! Little did he know that all America was on foot to receive him—to take possession of him the moment he touched her soil—to fetch and to carry him—to feast and applaud him—to make him the guest of cities, States, and the nation, as long as he could be detained. Many were the happy meetings which he had with old comrades, survivors for near half a century of their early hardships and dangers; and most grateful to his heart it was to see them, so many of them, exceptions to the maxim which denies to the beginners of revolutions the good fortune to conclude them (and of which maxim his own country had just been so sad an exemplification), and to see his old comrades not only conclude the one they began, but live to enjoy its fruits and honors. Three of his old associates he found ex-presidents (Adams, Jefferson, and Madison), enjoying the respect and affection of their country, after having reached its highest honors. Another, and the last one that *Time* would admit to the Presidency (Mr. Monroe), now in the Presidential chair, and inviting him to revisit the land of his adoption. Many of his

early associates seen in the two Houses of Congress—many in the State governments, and many more in all the walks of private life, patriarchal sires, respected for their characters, and venerated for their patriotic services. It was a grateful spectacle, and the more impressive from the calamitous fate which he had seen attend so many of the revolutionary patriots of the Old World. But the enthusiasm of the young generation astonished and excited him, and gave him a new view of himself—a future glimpse of himself—and such as he would be seen in after ages. Before *them*, he was in the presence of posterity; and in their applause and admiration he saw his own future place in history, passing down to the latest time as one of the most perfect and beautiful characters which one of the most eventful periods of the world had produced. Mr. Clay, as Speaker of the House of Representatives, and the organ of their congratulations to Lafayette (when he was received in the hall of the House), very felicitously seized the idea of his present confrontation with posterity, and adorned and amplified it with the graces of oratory. He said: "The vain wish has been sometimes indulged, that Providence would allow the patriot, after death, to return to his country, and to contemplate the intermediate changes which had taken place—to view the forests felled, the cities built, the mountains levelled, the canals cut, the highways opened, the progress of the arts, the advancement of learning, and the increase of population. General! your present visit to the United States is the realization of the consoling object of that wish, hitherto vain. You are in the midst of posterity! Every where you must have been struck with the great changes, physical and moral, which have occurred since you left us. Even this very city, bearing a venerated name, alike endearing to you and to us, has since emerged from the fores which then covered its site. In one respect you behold us unaltered, and that is, in the sentiment of continued devotion to liberty, and of ardent affection and profound gratitude to your departed friend, the father of his country, and to your illustrious associates in the field and in the cabinet, for the multiplied blessings which surround us, and for the very privilege of addressing you, which I now have." He was received in both Houses of Congress with equal honor; but the Houses did not limit themselves to honors: they added substantial rewards for long past services and sacrifices—two hundred thousand dollars in money, and twenty-four thousand acres of fertile land in Florida. These noble grants did not pass without objection—objection to the principle, not to the amount. The ingratitude of republics is the theme of any declaimer: it required a *Tacitus* to say, that gratitude was the death of republics, and the birth of monarchies; and it belongs to the people of the United States to exhibit an exception to that profound remark (as they do to so many other lessons of history), and show a young republic that knows how to be grateful without being unwise, and is able to pay the debt of gratitude without giving its liberties in the discharge of the obligation. The venerable Mr. Macon, yielding to no one in love and admiration of Lafayette, and appreciation of his services and sacrifices in the American cause, opposed the grants in the Senate, and did it with the honesty of purpose and the simplicity of language which distinguished all the acts of his life. He said: "It was with painful reluctance that he felt himself obliged to oppose his voice to the passage of this bill. He admitted, to the full extent claimed for them, the great and meritorious services of General Lafayette, and he did not object to the precise sum which this bill proposed to award him; but he objected to the bill on this ground: he considered General Lafayette, to all intents and purposes, as having been, during our revolution, a son adopted into the family, taken into the household, and placed, in every respect, on the same footing with the other sons of the same family. To treat him as others were treated, was all, in this view of his relation to us, that could be required, and this had been done. That General Lafayette made great sacrifices, and spent much of his money in the service of this country (said Mr. M.), I as firmly believe as I do any other thing under the sun. I have no doubt that every faculty of his mind and body were exerted in the Revolutionary war, in defence of this country; but this was equally the case with all the sons of the family. Many native Americans spent their all, made great sacrifices, and devoted their lives in the same cause. This was the ground of his objection to this bill, which, he repeated, it was as disagreeable to him to state as it could be to the Senate to hear. He did not mean to take up the time of the Se-

nate in debate upon the principle of the bill, or to move any amendment to it. He admitted that, when such things were done, they should be done with a free hand. It was to the principle of the bill, therefore, and not to the sum proposed to be given by it, that he objected."

The ardent Mr. Hayne, of South Carolina, reporter of the bill in the Senate, replied to the objections, and first showed from history (not from Lafayette, who would have nothing to do with the proposed grant), his advances, losses, and sacrifices in our cause. He had expended for the American service, in six years, from 1777 to 1783, the sum of 700,000 francs ($140,000), and under what circumstances? —a foreigner, owing us nothing, and throwing his fortune into the scale with his life, to be lavished in our cause. He left the enjoyments of rank and fortune, and the endearments of his family, to come and serve in our almost destitute armies, and without pay. He equipped and armed a regiment for our service, and freighted a vessel to us, loaded with arms and munitions. It was not until the year 1794, when almost ruined by the French revolution, and by his efforts in the cause of liberty, that he would receive the naked pay, without interest, of a general officer for the time he had served with us. He was entitled to land as one of the officers of the Revolution, and 11,500 acres was granted to him, to be located on any of the public lands of the United States. His agent located 1000 acres adjoining the city of New Orleans; and Congress afterwards, not being informed of the location, granted the same ground to the city of New Orleans. His location was valid, and he was so informed; but he refused to adhere to it, saying that he would have no contest with any portion of the American people, and ordered the location to be removed; which was done, and carried upon ground of little value—thus giving up what was then worth $50,000, and now $500,000. These were his moneyed advances, losses, and sacrifices, great in themselves, and of great value to our cause, but perhaps exceeded by the moral effect of his example in joining us, and his influence with the king and ministry, which procured us the alliance of France.

The grants were voted with great unanimity, and with the general concurrence of the American people. Mr. Jefferson was warmly for them, giving as a reason, in a conversation with me while the grants were depending (for the bill was passed in the Christmas holidays, when I had gone to Virginia, and took the opportunity to call upon that great man), which showed his regard for liberty abroad as well as at home, and his far-seeing sagacity into future events. He said there would be a change in France and Lafayette would be at the head of it, and ought to be easy and independent in his circumstances, to be able to act efficiently in conducting the movement. This he said to me on Christmas day, 1824. Six years afterwards this view into futurity was verified. The old Bourbons had to retire: the Duke of Orleans, a brave general in the republican armies, at the commencement of the Revolution, was handed to the throne by Lafayette, and became the "citizen king, surrounded by republican institutions." And in this Lafayette was consistent and sincere. He was a republican himself, but deemed a constitutional monarchy the proper government for France, and labored for that form in the person of Louis XVI. as well as in that of Louis Philippe.

Loaded with honors, and with every feeling of his heart gratified in the noble reception he had met in the country of his adoption, Lafayette returned to the country of his birth the following summer, still as the guest of the United States, and under its flag. He was carried back in a national ship of war, the new frigate Brandywine—a delicate compliment (in the name and selection of the ship) from the new President, Mr. Adams, Lafayette having wet with his blood the sanguinary battle-field which takes its name from the little stream which gave it first to the field, and then to the frigate. Mr. Monroe, then a subaltern in the service of the United States, was wounded at the same time. How honorable to themselves and to the American people, that nearly fifty years afterwards, they should again appear together, and in exalted station; one as President, inviting the other to the great republic, and signing the acts which testified a nation's gratitude; the other as a patriot hero, tried in the revolutions of two countries, and resplendent in the glory of virtuous and consistent fame.

CHAPTER XIII.

THE TARIFF, AND AMERICAN SYSTEM.

The revision of the Tariff, with a view to the protection of home industry, and to the establishment of what was then called, "The American System," was one of the large subjects before Congress at the session 1823–24, and was the regular commencement of the heated debates on that question which afterwards ripened into a serious difficulty between the federal government and some of the southern States. The presidential election being then depending, the subject became tinctured with party politics, in which, so far as that ingredient was concerned, and was not controlled by other considerations, members divided pretty much on the line which always divided them on a question of constructive powers. The protection of domestic industry not being among the granted powers, was looked for in the incidental; and denied by the strict constructionists to be a substantive power, to be exercised for the direct purpose of protection; but admitted by all at that time, and ever since the first tariff act of 1789, to be an incident to the revenue raising power, and an incident to be regarded in the exercise of that power. Revenue the object, protection the incident, had been the rule in the earlier tariffs: now that rule was sought to be reversed, and to make protection the object of the law, and revenue the incident. The revision, and the augmentation of duties which it contemplated, turned, not so much on the emptiness of the treasury and the necessity for raising money to fill it, as upon the distress of the country, and the necessity of creating a home demand for labor, provisions and materials, by turning a larger proportion of our national industry into the channel of domestic manufactures. Mr. Clay, the leader in the proposed revision, and the champion of the American System, expressly placed the proposed augmentation of duties on this ground; and in his main speech upon the question, dwelt upon the state of the country, and gave a picture of the public distress, which deserves to be reproduced in this View of the working of our government, both as the leading argument for the new tariff, and as an exhibition of a national distress, which those who were not cotemporary with the state of things which he described, would find it difficult to conceive or to realize. He said:

"In casting our eyes around us, the most prominent circumstance which fixes our attention and challenges our deepest regret, is the general distress which pervades the whole country. It is forced upon us by numerous facts of the most incontestable character. It is indicated by the diminished exports of native produce; by the depressed and reduced state of our foreign navigation; by our diminished commerce; by successive unthreshed crops of grain perishing in our barns for want of a market; by the alarming diminution of the circulating medium; by the numerous bankruptcies; by a universal complaint of the want of employment. and a consequent reduction of the wages of labor; by the ravenous pursuit after public situations, not for the sake of their honors, and the performance of their public duties, but as a means of private subsistence; by the reluctant resort to the perilous use of paper money; by the intervention of legislation in the delicate relation between debtor and creditor; and, above all, by the low and depressed state of the value of almost every description of the whole mass of the property of the nation, which has, on an average, sunk not less than about fifty per centum within a few years. This distress pervades every part of the Union, every class of society; all feel it, though it may be felt, at different places, in different degrees. It is like the atmosphere which surrounds us: all must inhale it, and none can escape from it. A few years ago, the planting interest consoled itself with its happy exemptions from the general calamity; but it has now reached this interest also, which experiences, though with less severity, the general suffering. It is most painful to me to attempt to sketch, or to dwell on the gloom of this picture. But I have exaggerated nothing. Perfect fidelity to the original would have authorized me to have thrown on deeper and darker hues."

Mr. Clay was the leading speaker on the part of the bill in the House of Representatives, but he was well supported by many able and effective speakers—by Messrs. Storrs, Tracy, John W. Taylor, from New-York; by Messrs. Buchanan, Todd, Ingham, Hemphill, Andrew Stewart, from Pennsylvania; by Mr. Louis McLane, from Delaware; by Messrs. Buckner F. Johnson, Letcher, Metcalfe, Trimble, White Wickliffe, from Kentucky; by Messrs. Campbell, Vance, John W. Wright, Vinton, Whittlesey, from Ohio; Mr. Daniel P. Cook, from Illinois.

Mr. Webster was the leading speaker on the other side, and disputed the universality of the distress which had been described; claiming exemption from it in New England; denied the assumed cause for it where it did exist, and attributed it to over expansion and collapse of the paper system, as in Great Britain, after the long suspension of the Bank of England; denied the necessity for increased protection to manufactures, and its inadequacy, if granted, to the relief of the country where distress prevailed; and contested the propriety of high or prohibitory duties, in the present active and intelligent state of the world, to stimulate industry and manufacturing enterprise. He said:

"Within my own observation, there is no cause for such gloomy and terrifying a representation. In respect to the New England States, with the condition of which I am best acquainted, they present to me a period of very general prosperity. Supposing the evil then to be a depression of prices, and a partial pecuniary pressure; the next inquiry is into the causes of that evil. A depreciated currency existed in a great part of the country—depreciated to such a degree as that, at one time, exchange between the centre and the north was as high as twenty per cent. The Bank of the United States was instituted to correct this evil; but, for causes which it is not now necessary to enumerate, it did not for some years bring back the currency of the country to a sound state. In May, 1819, the British House of Commons, by an unanimous vote, decided that the resumption of cash payments by the Bank of England should not be deferred beyond the ensuing February (it had then been in a state of suspension near twenty-five years). The paper system of England had certainly communicated an artificial value to property. It had encouraged speculation, and excited overtrading. When the shock therefore came, and this violent pressure for money acted at the same moment on the Continent and in England, inflated and unnatural prices could be kept up no longer. A reduction took place, which has been estimated to have been at least equal to a fall of thirty, if not forty, per cent. The depression was universal; and the change was felt in the United States severely, though not equally so in every part of them. About the time of these foreign events, our own bank system underwent a change; and all these causes, in my view of the subject, concurred to produce the great shock which took place in our commercial cities, and through many parts of the country. The year 1819 was a year of numerous failures, and very considerable distress, and would have furnished far better grounds than exist at present for that gloomy representation which has been presented. Mr. Speaker (Clay) has alluded to the strong inclination which exists, or has existed, in various parts of the country, to issue paper money, as a proof of great existing difficulties. I regard it rather as a very productive cause of those difficulties; and we cannot fail to observe, that there is at this moment much the loudest complaint of distress precisely where there has been the greatest attempt to relieve it by a system of paper credit. Let us not suppose that we are *beginning* the protection of manufactures by duties on imports. Look to the history of our laws; look to the present state of our laws. Consider that our whole revenue, with a trifling exception, is collected from the custom-house, and always has been; and then say what propriety there is in calling on the government for protection, as if no protection had heretofore been afforded. On the general question, allow me to ask if the doctrine of prohibition, as a general doctrine, be not preposterous? Suppose all nations to act upon it: they would be prosperous, then, according to the argument, precisely in the proportion in which they abolished intercourse with one another. The best apology for laws of prohibition and laws of monopoly, will be found in that state of society, not only unenlightened, but sluggish, in which they are most generally established. Private industry in those days, required strong provocatives, which government was seeking to administer by these means. Something was wanted to actuate and stimulate men, and the prospects of such profits as would, in our times, excite unbounded competition, would hardly move the sloth of former ages. In some instances, no doubt, these laws produced an effect which, in that period, would not have taken place without them. (Instancing the protection to the English woollen manufactures in the time of the Henrys and the Edwards). But our age is wholly of a different character, and its legislation takes another turn. Society is full of excitement: competition comes in place of monopoly; and intelligence and industry ask only for fair play and an open field."

With Mr. Webster were numerous and able speakers on the side of free trade: From his own State, Mr. Baylies; from New-York, Mr. Cambreling; from Virginia, Messrs. Randolph, Philip P. Barbour, John S. Barbour, Garnet, Alexander Smythe, Floyd, Mercer, Archer, Stevenson, Rives, Tucker, Mark Alexander; from North Carolina, Messrs. Mangum, Saunders, Spaight, Lewis Williams, Burton, Weldon N. Edwards; from South Carolina, Messrs. McDuffie, James Hamilton, Poinsett; from Georgia, Messrs. Forsyth, Tatnall, Cuthbert, Cobb; from Tennessee, Messrs. Blair, Isaaks, Reynolds; from Louisiana, Mr. Edward Livingston; from Alabama, Mr. Owen; from Maryland, Mr.

Warfield; from Mississippi, Mr. Christopher Rankin.

The bill was carried in the House, after a protracted contest of ten weeks, by the lean majority of five—107 to 102—only two members absent, and the voting so zealous that several members were brought in upon their sick couches. In the Senate the bill encountered a strenuous resistance. Mr. Edward Lloyd, of Maryland, moved to refer it to the committee on finance—a motion considered hostile to the bill; and which was lost by one vote—22 to 23. It was then, on the motion of Mr. Dickerson, of New Jersey, referred to the committee on manufactures; a reference deemed favorable to the bill, and by which committee it was soon returned to the Senate without any proposed amendment. It gave rise to a most earnest debate, and many propositions of amendment, some of which, of slight import, were carried. The bill itself was carried by the small majority of four votes—25 to 21. The principal speakers in favor of the bill were: Messrs. Dickerson, of New Jersey; D'Wolf, of Rhode Island; Holmes, of Maine; R. M. Johnson, of Kentucky; Lowrie, of Pennsylvania; Talbot, of Kentucky; Van Buren. Against it the principal speakers were: Messrs. James Barbour and John Taylor, of Virginia (usually called John Taylor of Caroline); Messrs. Branch, of North Carolina; Hayne, of South Carolina; Henry Johnson and Josiah Johnston, of Louisiana; Kelly and King, of Alabama; Rufus King, of New-York; James Lloyd, of Massachusetts; Edward Lloyd and Samuel Smith, of Maryland; Macon, of North Carolina; Van Dyke, of Delaware. The bill, though brought forward avowedly for the protection of domestic manufactures, was not entirely supported on that ground. An increase of revenue was the motive with some, the public debt being still near ninety millions, and a loan of five millions being authorized at that session. An increased protection to the products of several States, as lead in Missouri and Illinois, hemp in Kentucky, iron in Pennsylvania, wool in Ohio and New-York, commanded many votes for the bill; and the impending presidential election had its influence in its favor. Two of the candidates, Messrs. Adams and Clay, were avowedly for it; General Jackson, who voted for the bill, was for it, as tending to give a home supply of the articles necessary in time of war, and as raising revenue to pay the public debt. Mr. Crawford was opposed to it; and Mr. Calhoun had been withdrawn from the list of presidential candidates, and become a candidate for the Vice-Presidency. The Southern planting States were extremely dissatisfied with the passage of the bill, believing that the new burdens upon imports which it imposed fell upon the producers of the exports, and tended to enrich one section of the Union at the expense of another. The attack and support of the bill took much of a sectional aspect; Virginia, the two Carolinas, Georgia, and some others being nearly unanimous against it. Pennsylvania, New-York, Ohio, Kentucky being nearly unanimous for it. Massachusetts, which up to this time had a predominating interest in commerce, voted all, except one member, against it. With this sectional aspect, a tariff for protection also began to assume a political aspect, being taken under the care of the party since discriminated as Whig, which drew from Mr. Van Buren a sagacious remark, addressed to the manufacturers themselves; that if they suffered their interests to become identified with a political party (any one), they would share the fate of that party, and go down with it whenever it sunk. Without the increased advantages to some States, the pendency of the presidential election, and the political tincture which the question began to receive, the bill would not have passed—so difficult is it to prevent national legislation from falling under the influence of extrinsic and accidental causes. The bill was approved by Mr. Monroe—a proof that that careful and strict constructionist of the Constitution did not consider it as deprived of its revenue character by the degree of protection which it extended.

CHAPTER XIV.

THE A. B. PLOT.

On Monday, the 19th of April, the Speaker of the House (Mr. Clay) laid before that body a note just received from Ninian Edwards, Esq., late Senator in Congress, from Illinois, and then Minister to Mexico, and then on his way to his post, requesting him to present to the House a communication which accompanied the note, and

which charged illegalities and misconduct on the Secretary of the Treasury, Mr. William H. Crawford. The charges and specifications, spread through a voluminous communication, were condensed at its close into six regular heads of accusation, containing matter of impeachment; and declaring them all to be susceptible of proof, if the House would order an investigation. The communication was accompanied by ten numbers of certain newspaper publications, signed A. B., of which Mr. Edwards avowed himself to be the author, and asked that they might be received as a part of his communication, and printed along with it, and taken as the specifications under the six charges. Mr. Crawford was then a prominent candidate for the Presidency, and the A. B. papers, thus communicated to the House, were a series of publications made in a Washington City paper, during the canvass, to defeat his election, and would doubtless have shared the usual fate of such publications, and sunk into oblivion after the election was over, had it not been for this formal appeal to the House (the grand inquest of the nation) and this call for investigation. The communication, however, did not seem to contemplate an early investigation, and certainly not at the then session of Congress. Congress was near its adjournment; the accuser was on his way to Mexico; the charges were grave; the specifications under them numerous and complex; and many of them relating to transactions with the remote western banks. The evident expectation of the accuser was, that the matter would lie over to the next session, before which time the presidential election would take place, and all the mischief be done to Mr. Crawford's character, resulting from unanswered accusations of so much gravity, and so imposingly laid before the impeaching branch of Congress. The friends of Mr. Crawford saw the necessity of immediate action; and Mr. Floyd, of Virginia, instantly, upon the reading of the communication, moved that a committee be appointed to take it into consideration, and that it be empowered to send for persons and papers—to administer oaths—take testimony—and report it to the House; with leave to sit after the adjournment, if the investigation was not finished before; and publish their report. The committee was granted, with all the powers asked for, and was most unexceptionably composed by the speaker (Mr. Clay); a task of delicacy and responsibility, the Speaker being himself a candidate for the Presidency, and every member of the House a friend to some one of the candidates, including the accused. It consisted of Mr. Floyd, the mover; Mr. Livingston, of Louisiana; Mr. Webster, of Massachusetts; Mr. Randolph, of Virginia; Mr. J. W. Taylor, of New-York; Mr. Duncan McArthur, of Ohio; and Mr. Owen, of Alabama.

The sergeant-at-arms of the House was immediately dispatched by the committee in pursuit of Mr. Edwards: overtook him at fifteen hundred miles; brought him back to Washington; but did not arrive until Congress had adjourned. In the mean time, the committee sat, and received from Mr. Crawford his answer to the six charges: an answer pronounced by Mr. Randolph to be "a triumphant and irresistible vindication; the most temperate, passionless, mild, dignified, and irrefragable exposure of falsehood that ever met a base accusation; and without one harsh word towards their author." This was the true character of the answer; but Mr. Crawford did not write it. He was unable at that time to write any thing. It was written and read to him as it went on, by a treasury clerk, familiar with all the transactions to which the accusations related—Mr. Asbury Dickens, since secretary of the Senate. This Mr. Crawford told himself at the time, with his accustomed frankness. His answer being mentioned by a friend, as a proof that his paralytic stroke had not affected his strength, he replied, that was no proof—that Dickens wrote it. The committee went on with the case (Mr. Edwards represented by his son-in-law, Mr. Cook), examined all the evidence in their reach, made a report unanimously concurred in, and exonerating Mr. Crawford from every dishonorable or illegal imputation. The report was accepted by the House; but Mr. Edwards, having far to travel on his return journey, had not yet been examined; and to hear him the committee continued to sit after Congress had adjourned. He was examined fully, but could prove nothing; and the committee made a second report, corroborating the former, and declaring it as their unanimous opinion—the opinion of every one present—"that nothing had been proved to impeach the integrity of the Secretary, or to bring into doubt the general correctness and ability of his administration of the public finances."

The committee also reported all the testimony

taken, from which it appeared that Mr. Edwards himself had contradicted all the accusations in the A. B. papers; had denied the authorship of them; had applauded the conduct of Mr. Crawford in the use of the western banks, and their currency in payment of the public lands, as having saved farmers from the loss of their homes; and declared his belief, that no man in the government could have conducted the fiscal and financial concerns of the government with more integrity and propriety than he had done. This was while his nomination as minister to Mexico was depending in the Senate, and to Mr. Noble, a Senator from Indiana, and a friend to Mr. Crawford. He testified:

"That he had had a conversation with Mr. Edwards, introduced by Mr. E. himself, concerning Mr. Crawford's management of the western banks, and the authorship of the A. B. letters. That it was pending his nomination made by the President to the Senate, as minister to Mexico. He (Mr. E.) stated that he was about to be attacked in the Senate, for the purpose of defeating his nomination: that party and political spirit was now high; that he understood that charges would be exhibited against him, and that it had been so declared in the Senate. He further remarked, that he knew me to be the decided friend of William H. Crawford, and said, I am considered as being his bitter enemy; and I am charged with being the author of the numbers signed A. B.; but (raising his hand) I pledge you my honor, I am not the author, nor do I know who the author is. Crawford and I, said Mr. Edwards, have had a little difference; but I have always considered him a high-minded, honorable, and vigilant officer of the government. He has been abused about the western banks and the unavailable funds. Leaning forward, and extending his hand, he added, now damn it, you know we both live in States where there are many poor debtors to the government for lands, together with a deranged currency. The notes on various banks being depreciated, after the effect and operation of the war in that portion of the Union, and the banks, by attempting to call in their paper, having exhausted their specie, the notes that were in circulation became of little or no value. Many men of influence in that country, said he, have united to induce the Secretary of the Treasury to select certain banks as banks of deposit, and to take the notes of certain banks in payment for public land. Had he (Mr. Crawford) not done so, many of our inhabitants would have been turned out of doors, and lost their land; and the people of the country would have had a universal disgust against Mr. Crawford. And I will venture to say, said Mr. Edwards, notwithstanding I am considered his enemy, that no man in this government could have managed the fiscal and financial concerns of the government with more integrity and propriety than Mr. Crawford did. He (Mr. Noble) had never repeated this conversation to any body until the evening of the day that I (he) was informed that Gov. Edwards' 'address' was presented to the House of Representatives. On that evening, in conversation with several members of the House, amongst whom were Mr. Reid and Mr. Nelson, some of whom said that Governor Edwards had avowed himself to be the author of A. B., and others said that he had not done so, I remarked, that they must have misunderstood the 'address,' for Gov. Edwards had pledged his honor to me that he was not the author of A. B."

Other witnesses testified to his denials, while the nomination was depending, of all authorship of these publications: among them, the editors of the National Intelligencer,—friends to Mr. Crawford. Mr. Edwards called at their office at that time (the first time he had been there within a year), to exculpate himself from the imputed authorship; and did it so earnestly that the editors believed him, and published a contradiction of the report against him in their paper, stating that they had a "good reason" to know that he was not the author of these publications. That "good reason," they testified, was his own voluntary denial in this unexpected visit to their office, and his declarations in what he called a "frank and free" conversation with them on the subject. Such testimony, and the absence of all proof on the other side, was fatal to the accusations, and to the accuser. The committee reported honorably and unanimously in favor of Mr. Crawford; the Congress and the country accepted it; Mr. Edwards resigned his commission, and disappeared from the federal political theatre: and that was the end of the A. B. plot, which had filled some newspapers for a year with publications against Mr. Crawford, and which might have passed into oblivion, as the current productions and usual concomitants of a Presidential canvass, had it not been for their formal communication to Congress as ground of impeachment against a high officer. That communication carried the "six charges," and their ten chapters of specifications, into our parliamentary history, where their fate becomes one of the instructive lessons which it is the province of history to teach. The newspaper in which the A. B. papers were published, was edited by a war-office clerk, in the interest of the war Secretary (Mr. Calhoun), to the serious injury of that gentleman, who received no vote in any State voting for Mr. Crawford.

CHAPTER XV.

AMENDMENT OF THE CONSTITUTION IN RELATION TO THE ELECTION OF PRESIDENT AND VICE-PRESIDENT.

EUROPEAN writers on American affairs are full of mistakes on the working of our government; and these mistakes are generally to the prejudice of the democratic element. Of these mistakes, and in their ignorance of the difference between the theory and the working of our system in the election of the two first officers, two eminent French writers are striking instances: Messrs. de Tocqueville and Thiers. Taking the working and the theory of our government in this particular to be the same, they laud the institution of electors, to whom they believe the whole power of election belongs (as it was intended);—and hence attribute to the superior sagacity of these electors the merit of choosing all the eminent Presidents who have adorned the presidential chair. This mistake between theory and practice is known to every body in America, and should be known to enlightened men in Europe, who wish to do justice to popular government. The electors have no practical power over the election, and have had none since their institution. From the beginning they have stood pledged to vote for the candidates indicated (in the early elections) by the public will; afterwards, by Congress caucuses, as long as those caucuses followed the public will; and since, by assemblages called conventions, whether they follow the public will or not. In every case the elector has been an instrument, bound to obey a particular impulsion; and disobedience to which would be attended with infamy, and with every penalty which public indignation could inflict. From the beginning these electors have been useless, and an inconvenient intervention between the people and the object of their choice; and, in time, may become dangerous: and being useless, inconvenient, and subject to abuse and danger; having wholly failed to answer the purpose for which they were instituted (and for which purpose no one would now contend); it becomes a just conclusion that the institution should be abolished, and the election committed to the direct vote of the people. And, to obviate all excuse for previous nominations by intermediate bodies, a second election to be held forthwith between the two highest or leading candidates, if no one had had a majority of the whole number on the first trial. These are not new ideas, born of a spirit of change and innovation; but old doctrine, advocated in the convention which framed the Constitution, by wise and good men; by Dr. Franklin and others, of Pennsylvania; by John Dickinson and others, of Delaware. But the opinion prevailed in the convention, that the mass of the people would not be sufficiently informed, discreet, and temperate to exercise with advantage so great a privilege as that of choosing the chief magistrate of a great republic; and hence the institution of an intermediate body, called the electoral college—its members to be chosen by the people—and when assembled in conclave (I use the word in the Latin sense of *con* and *clavis*, under key), to select whomsoever they should think proper for President and Vice-President. All this scheme having failed, and the people having taken hold of the election, it became just and regular to attempt to legalize their acquisition by securing to them constitutionally the full enjoyment of the rights which they imperfectly exercised. The feeling to this effect became strong as the election of 1824 approached, when there were many candidates in the field, and Congress caucuses fallen into disrepute; and several attempts were made to obtain a constitutional amendment to accomplish the purpose. Mr. McDuffie, in the House of Representatives, and myself in the Senate, both proposed such amendments; the mode of taking the direct votes to be in districts, and the persons receiving the greatest number of votes for President or Vice-President in any district, to count one vote for such office respectively; which is nothing but substituting the candidates themselves for their electoral representatives, while simplifying the election, insuring its integrity, and securing the rights of the people. In support of my proposition in the Senate, I delivered some arguments in the form of a speech, from which I here add some extracts, in the hope of keeping the question alive, and obtaining for it a better success at some future day.

"The evil of a want of uniformity in the choice of presidential electors, is not limited to its disfiguring effect upon the face of our gov-

ernment, but goes to endanger the rights of the people, by permitting sudden alterations on the eve of an election, and to annihilate the right of the small States, by enabling the large ones to combine, and to throw all their votes into the scale of a particular candidate. These obvious evils make it certain that *any uniform rule* would be preferable to the present state of things. But, in fixing on one, it is the duty of statesmen to select that which is calculated to give to every portion of the Union its due share in the choice of the Chief Magistrate, and to every individual citizen, a fair opportunity of voting according to his will. This would be effected by adopting the *District System*. It would divide every State into districts, equal to the whole number of votes to be given, and the people of each district would be governed by its own majority, and not by a majority existing in some remote part of the State. This would be agreeable to the *rights* of individuals: for, in entering into society, and submitting to be bound by the decision of the majority, each individual retained the right of voting for himself wherever it was practicable, and of being governed by a majority of the vicinage, and not by majorities brought from remote sections to overwhelm him with their accumulated numbers. It would be agreeable to the *interests* of all parts of the States; for each State may have different interests in different parts; one part may be agricultural, another manufacturing, another commercial; and it would be unjust that the strongest should govern, or that two should combine and sacrifice the third. The district system would be agreeable to the *intention* of our present constitution, which, in giving to each elector a separate vote, instead of giving to each State a consolidated vote, composed of all its electoral suffrages, clearly intended that each mass of persons entitled to one elector, should have the right of giving one vote, according to their own sense of their own interest.

"The general ticket system now existing in ten States, was the offspring of policy, and not of any disposition to give fair play to the will of the people. It was adopted by the leading men of those States, to enable them to consolidate the vote of the State. It would be easy to prove this by referring to facts of historical notoriety. It contributes to give power and consequence to the leaders who manage the elections, but it is a departure from the intention of the constitution; violates the rights of the minorities, and is attended with many other evils. The intention of the constitution is violated, because it was the intention of that instrument to give to each mass of persons, entitled to one elector, the power of giving an electoral vote to any candidate they preferred. The rights of minorities are violated, because a majority of *one* will carry the vote of the whole State. This principle is the same, whether the elector is chosen by general ticket or by legislative ballot; a majority of *one*, in either case, carries the vote of the whole State. In New-York, thirty-six electors are chosen nineteen is a majority, and the candidate receiving this majority is fairly entitled to count nineteen votes; but he counts in reality, thirty-six: because the minority of seventeen are added to the majority. These seventeen votes belong to seventeen masses of people, of 40,000 souls each, in all 680,000 people, whose votes are seized upon, taken away, and presented to whom the majority pleases. Extend the calculation to the seventeen States now choosing electors by general ticket or legislative ballot, and it will show that three millions of souls, a population equal to that which carried us through the Revolution, may have their votes taken from them in the same way. To *lose* their votes, is the fate of all minorities, and it is their duty to submit; but this is not a case of votes *lost*, but of votes *taken away*, added to those of the majority, and given to a person to whom the minority was opposed.

"He said, this objection (to the direct vote of the people) had a weight in the year 1787, to which it is not entitled in the year 1824. Our government was then young, schools and colleges were scarce, political science was then confined to few, and the means of diffusing intelligence were both inadequate and uncertain. The experiment of a popular government was just beginning; the people had been just released from subjection to an hereditary king, and were not yet practised in the art of choosing a temporary chief for themselves. But thirty-six years have reversed this picture. Thirty-six years, which have produced so many wonderful changes in America, have accomplished the work of many centuries upon the intelligence of its inhabitants. Within that period, schools, colleges, and universities have multiplied to an amazing extent. The means of diffusing intelligence have been wonderfully augmented by the establishment of six hundred newspapers, and upwards of five thousand post-offices. The whole course of an American's life, civil, social, and religious, has become one continued scene of intellectual and of moral improvement. Once in every week, more than eleven thousand men, eminent for learning and for piety, perform the double duty of amending the hearts, and enlightening the understandings, of more than eleven thousand congregations of people. Under the benign influence of a free government, both our public institutions and private pursuits, our juries, elections, courts of justice, the liberal professions, and the mechanic arts, have each become a school of political science and of mental improvement. The federal legislature, in the annual message of the President, in reports from heads of departments, and committees of Congress, and speeches of members, pours forth a flood of intelligence which carries its waves to the remotest confines of the republic. In the different States, twenty-four State executives and State legislatures are annu-

ally repeating the same process within a more limited sphere. The habit of universal travelling, and the practice of universal interchange of thought, are continually circulating the intelligence of the country, and augmenting its mass. The face of our country itself, its vast extent, its grand and varied features, contribute to expand the human intellect, and to magnify its power. Less than half a century of the enjoyment of liberty has given practical evidence of the great moral truth, that, under a free government, the power of the intellect is the only power which rules the affairs of men; and virtue and intelligence the only durable passports to honor and preferment. The conviction of this great truth has created an universal taste for learning and for reading, and has convinced every parent that the endowments of the mind, and the virtues of the heart, are the only imperishable, the only inestimable riches which he can leave to his posterity.

"This objection (the danger of tumults and violence at the elections) is taken from the history of the ancient republics; from the tumultuary elections of Rome and Greece. But the justness of the example is denied. There is nothing in the laws of physiology which admits a parallel between the sanguinary Roman, the volatile Greek, and the phlegmatic American. There is nothing in the state of the respective countries, or in their manner of voting, which makes one an example for the other. The Romans voted in a mass, at a single voting place, even when the qualified voters amounted to millions of persons. They came to the polls armed, and divided into classes, and voted, not by heads, but by centuries. In the Grecian Republics all the voters were brought together in one great city, and decided the contest in one great struggle. In such assemblages, both the inducement to violence, and the means of committing it, were prepared by the government itself. In the United States all this is different. The voters are assembled in small bodies, at innumerable voting places, distributed over a vast extent of country. They come to the polls without arms, without odious distinctions, without any temptation to violence, and with every inducement to harmony. If heated during the day of election, they cool off upon returning to their homes, and resuming their ordinary occupations.

"But let us admit the truth of the objection. Let us admit that the American people would be as tumultuary at their presidential elections, as were the citizens of the ancient republics at the election of their chief magistrates. What then? Are we thence to infer the inferiority of the officers thus elected, and the consequent degradation of the countries over which they presided? I answer no. So far from it, that I assert the superiority of these officers over all others ever obtained for the same countries, either by hereditary succession, or the most select mode of election. I affirm those periods of history to be the most glorious in arms, the most renowned in arts, the most celebrated in letters, the most useful in practice, and the most happy in the condition of the people, in which the whole body of the citizens voted direct for the chief officer of their country. Take the history of that commonwealth which yet shines as the leading star in the firmament of nations. Of the twenty-five centuries that the Roman state has existed, to what period do we look for the generals and statesmen, the poets and orators, the philosophers and historians, the sculptors, painters, and architects, whose immortal works have fixed upon their country the admiring eyes of all succeeding ages? Is it to the reigns of the seven first kings?—to the reigns of the emperors, proclaimed by the prætorian bands?—to the reigns of the Sovereign Pontiffs, chosen by a select body of electors in a conclave of most holy cardinals? No—We look to none of these, but to that short interval of four centuries and a half which lies between the expulsion of the Tarquins, and the re-establishment of monarchy in the person of Octavius Cæsar. It is to this short period, during which the consuls, tribunes, and prætors, were annually elected by a direct vote of the people, to which we look ourselves, and to which we direct the infant minds of our children, for all the works and monuments of Roman greatness; for roads, bridges, and aqueducts, constructed; for victories gained, nations vanquished, commerce extended, treasure imported, libraries founded, learning encouraged, the arts flourishing, the city embellished, and the kings of the earth humbly suing to be admitted into the friendship, and taken under the protection, of the Roman people. It was of this magnificent period that Cicero spoke, when he proclaimed the people of Rome to be the masters of kings, and the conquerors and commanders of all the nations of the earth. And, what is wonderful, during this whole period, in a succession of four hundred and fifty annual elections, the people never once preferred a citizen to the consulship who did not carry the prosperity and the glory of the Republic to a point beyond that at which he had found it.

"It is the same with the Grecian Republics. Thirty centuries have elapsed since they were founded; yet it is to an ephemeral period of one hundred and fifty years only, the period of popular elections which intervened between the dispersion of a cloud of petty tyrants, and the coming of a great one in the person of Philip, king of Macedon, that we are to look for that galaxy of names which shed so much lustre upon their country, and in which we are to find the first cause of that intense sympathy which now burns in our bosoms at the name of Greece.

"These short and brilliant periods exhibit the great triumph of popular elections; often tumultuary, often stained with blood, but always ending gloriously for the country. Then the

right of suffrage was enjoyed; the sovereignty of the people was no fiction. Then a sublime spectacle was seen, when the Roman citizen advanced to the polls and proclaimed: '*I vote for Cato to be Consul;*' the Athenian, '*I vote for Aristides to be Archon;*' the Theban, '*I vote for Pelopidas to be Bœotrach;*' the Lacedemonian, '*I vote for Leonidas to be first of the Ephori.*' And why may not an American citizen do the same? Why may not he go up to the poll and proclaim, '*I vote for Thomas Jefferson to be President of the United States?*' Why is he compelled to put his vote in the hands of another, and to incur all the hazards of an irresponsible agency, when he himself could immediately give his own vote for his own chosen candidate, without the slightest assistance from agents or managers?

"But, said Mr. Benton, I have other objections to these intermediate electors. They are the peculiar and favorite institution of aristocratic republics, and elective monarchies. I refer the Senate to the late republics of Venice and Genoa; of France, and her litter; to the kingdom of Poland; the empire of Germany, and the Pontificate of Rome. On the contrary, a direct vote by the people is the peculiar and favorite institution of democratic republics; as we have just seen in the governments of Rome, Athens, Thebes, and Sparta; to which may be added the principal cities of the Amphyctionic and Achaian leagues, and the renowned republic of Carthage when the rival of Rome.

"I have now answered the objections which were brought forward in the year '87. I ask for no judgment upon their validity at that day, but I affirm them to be without force or reason in the year 1824. TIME and EXPERIENCE have so decided. Yes, *time* and *experience*, the only infallible tests of good or bad institutions, have now shown that the continuance of the electoral system will be both useless and dangerous to the liberties of the people, and that '*the only effectual mode of preserving our government from the corruptions which have undermined the liberty of so many nations, is, to confide the election of our chief magistrate to those who are farthest removed from the influence of his patronage;*'* that is to say, TO THE WHOLE BODY OF AMERICAN CITIZENS!

"The electors are not independent; they have no superior intelligence; they are not left to their own judgment in the choice of President; they are not above the control of the people; on the contrary, every elector is pledged, before he is chosen, to give his vote according to the will of those who choose him. He is nothing but an agent, tied down to the execution of a precise trust. Every reason which induced the convention to institute electors has failed. They are no longer of any use, and may be dangerous to the liberties of the people. They are not useful, because they have no power over their own vote, and because the people can vote for a President as easily as they can vote for an elector. They are dangerous to the liberties of the people, because, in the *first* place, they introduce extraneous considerations into the election of President; and, in the *second* place, they may sell the vote which is intrusted to their keeping. They introduce extraneous considerations, by bringing their own character and their own exertions into the presidential canvass. Every one sees this. Candidates for electors are now selected, not for the reasons mentioned in the Federalist, but for their devotion to a particular party, for their manners, and their talent at electioneering. The elector may betray the liberties of the people, by selling his vote. The operation is easy, because he votes by ballot; detection is impossible, because he does not sign his vote; the restraint is nothing but his own conscience, for there is no legal punishment for his breach of trust. If a swindler defrauds you out of a few dollars in property or money, he is whipped and pilloried, and rendered infamous in the eye of the law; but, if an elector should defraud 40,000 people of their vote, there is no remedy but to abuse him in the newspapers, where the best men in the country may be abused, as much as Benedict Arnold, or Judas Iscariot. Every reason for instituting electors has failed, and every consideration of prudence requires them to be discontinued. They are nothing but agents, in a case which requires no agent; and no prudent man would, or ought, to employ an agent to take care of his money, his property, or his liberty, when he is equally capable to take care of them himself.

"But, if the plan of the constitution had not failed—if we were now deriving from electors all the advantages expected from their institution—I, for one, said Mr. B., would still be in favor of getting rid of them. I should esteem the incorruptibility of the people, their disinterested desire to get the best man for President, to be more than a counterpoise to all the advantages which might be derived from the superior intelligence of a more enlightened, but smaller, and therefore, more corruptible body. I should be opposed to the intervention of electors, because the double process of electing a man to elect a man, would paralyze the spirit of the people, and destroy the life of the election itself. Doubtless this machinery was introduced into our constitution for the purpose of softening the action of the democratic element; but it also softens the interest of the people in the result of the election itself. It places them at too great a distance from their first servant. It interposes a body of men between the people and the object of their choice, and gives a false direction to the gratitude of the President elected. He feels himself indebted to the electors who collected the votes of the people, and not to the

* Report of a Committee of the House of Representatives on Mr. McDuffie's proposition.

people, who gave their votes to the electors. It enables a few men to govern many, and, in time, it will transfer the whole power of the election into the hands of a few, leaving to the people the humble occupation of confirming what has been done by superior authority.

"Mr Benton referred to historical examples to prove the correctness of his opinion.

"He mentioned the constitution of the French Republic, of the year III. of French liberty. The people to choose electors; these to choose the Councils of Five Hundred, and of Ancients; and these, by a further process of filtration, to choose the Five Directors. The effect was, that the people had no concern in the election of their Chief Magistrates, and felt no interest in their fate. They saw them enter and expel each other from the political theatre, with the same indifference with which they would see the entrance and the exit of so many players on the stage. It was the same thing in all the subaltern Republics of which the French armies were delivered, while overturning the thrones of Europe. The constitutions of the Ligurian, Cisalpine, and Parthenopian Republics, were all duplicates of the mother institution, at Paris; and all shared the same fate. The French consular constitution of the year VIII. (the last year of French liberty) preserved all the vices of the electoral system; and from this fact, alone, that profound observer, NECKAR, from the bosom of his retreat, in the midst of the Alps, predicted and proclaimed the death of Liberty in France. He wrote a book to prove that 'LIBERTY WOULD BE RUINED BY PROVIDING ANY KIND OF SUBSTITUTE FOR POPULAR ELECTIONS:' and the result verified his prediction in four years."

CHAPTER XVI.

INTERNAL TRADE WITH NEW MEXICO.

THE name of Mexico, the synonyme of gold and silver mines, possessed always an invincible charm for the people of the western States. Guarded from intrusion by Spanish jealousy and despotic power, and imprisonment for life, or labor in the mines, the inexorable penalty for every attempt to penetrate the forbidden country, still the dazzled imaginations and daring spirits of the Great West adventured upon the enterprise; and failure and misfortune, chains and labor, were not sufficient to intimidate others. The journal of (the then lieutenant, afterwards) General Pike inflamed this spirit, and induced new adventurers to hazard the enterprise, only to meet the fate of their predecessors. It was not until the Independence of Mexico, in the year 1821, that the frontiers of this vast and hitherto sealed up country, were thrown open to foreign ingress, and trade and intercourse allowed to take their course. The State of Missouri, from her geographical position, and the adventurous spirit of her inhabitants, was among the first to engage in it; and the "Western Internal Provinces"—the vast region comprehending New Mexico, El Paso del Norte, New Biscay, Chihuahua, Sonora, Sinaloa, and all the wide slope spreading down towards the Gulf of California, the ancient "Sea of Cortez"—was the remote theatre of their courageous enterprise—the further off and the less known, so much the more attractive to their daring spirits. It was the work of individual enterprise, without the protection or countenance of the government—without even its knowledge—and exposed to constant danger of life and property from the untamed and predatory savages, Arabs of the New World, which roamed over the intermediate country of a thousand miles, and considered the merchant and his goods their lawful prey. In three years it had grown up to be a new and regular branch of interior commerce, profitable to those engaged in it, valuable to the country from the articles it carried out, and for the silver, the furs, and the mules which it brought back; and well entitled to the protection and care of the government. That protection was sought, and in the form which the character of the trade required—a right of way through the countries of the tribes between Missouri and New Mexico, a road marked out and security in travelling it, stipulations for good behavior from the Indians, and a consular establishment in the provinces to be traded with. The consuls could be appointed by the order of the government; but the road, the treaty stipulations, and the substantial protection against savages, required the aid of the federal legislative power, and for that purpose a Bill was brought into the Senate by me in the session of 1824–25; and being a novel and strange subject, and asking for extraordinary legislation, it became necessary to lay a foundation of facts, and to furnish a reason and an argument for every thing that was asked. I

produced a statement from those engaged in the trade, among others from Mr. Augustus Storrs, late of New Hampshire, then of Missouri—a gentleman of character and intelligence, very capable of relating things as they were, and incapable of relating them otherwise; and who had been personally engaged in the trade. In presenting his statement, and moving to have it printed for the use of the Senate, I said:

"This gentleman had been one of a caravan of eighty persons, one hundred and fifty-six horses, and twenty-three wagons and carriages, which had made the expedition from Missouri to Santa Fé (of New Mexico), in the months of May and June last. His account was full of interest and novelty. It sounded like romance to hear of caravans of men, horses, and wagons, traversing with their merchandise the vast plain which lies between the Mississippi and the *Rio del Norte*. The story seemed better adapted to Asia than to North America. But, romantic as it might seem, the reality had already exceeded the visions of the wildest imagination. The journey to New Mexico, but lately deemed a chimerical project, had become an affair of ordinary occurrence. Santa Fé, but lately the *Ultima Thule* of American enterprise, was now considered as a stage only in the progress, or rather, a new point of departure to our invincible citizens. Instead of turning back from that point, the caravans broke up there, and the subdivisions branched off in different directions in search of new theatres for their enterprise. Some proceeded down the river to the *Paso del Norte;* some to the mines of Chihuahua and Durango, in the province of New Biscay; some to Sonora and Sinaloa, on the Gulf of California; and some, seeking new lines of communication with the Pacific, had undertaken to descend the western slope of our continent, through the unexplored regions of the Colorado. The fruit of these enterprises, for the present year, amounted to $190,000 in gold and silver bullion, and coin, and precious furs; a sum considerable, in itself, in the commerce of an infant State, but chiefly deserving a statesman's notice, as an earnest of what might be expected from a regulated and protected trade. The principal article given in exchange, is that of which we have the greatest abundance, and which has the peculiar advantage of making the circuit of the Union before it departs from the territories of the republic—cotton—which grows in the South, is manufactured in the North, and exported from the West.

"That the trade will be beneficial to the inhabitants of the Internal Provinces, is a proposition too plain to be argued. They are a people among whom all the arts are lost—the ample catalogue of whose wants may be inferred from the lamentable details of Mr. Storrs. No books! no newspapers! iron a dollar a pound cultivating the earth with wooden tools! and spinning upon a stick! Such is the picture of a people whose fathers wore the proud title of "*Conquerors;*" whose ancestors, in the time of Charles the Fifth, were the pride, the terror, and the model of Europe; and such has been the power of civil and religious despotism in accomplishing the degradation of the human species! To a people thus abased, and so lately arrived at the possession of their liberties, a supply of merchandise, upon the cheapest terms, is the least of the benefits to be derived from a commerce with the people of the United States. The consolidation of their republican institutions, the improvement of their moral and social condition, the restoration of their lost arts, and the development of their national resources, are among the grand results which philanthropy anticipates from such a commerce.

"To the Indians themselves, the opening of a road through their country is an object of vital importance. It is connected with the preservation and improvement of their race. For two hundred years the problem of Indian civilization has been successively presented to each generation of the Americans, and solved by each in the same way. Schools have been set up, colleges founded, and missions established; a wonderful success has attended the commencement of every undertaking; and, after some time, the schools, the colleges, the missions, and the Indians, have all disappeared together. In the south alone have we seen an exception. There the nations have preserved themselves, and have made a cheering progress in the arts of civilization. Their advance is the work of twenty years. It dates its commencement from the opening of roads through their country. Roads induced separate families to settle at the crossing of rivers, to establish themselves at the best springs and tracts of land, and to begin to sell grain and provisions to the travellers, whom, a few years before, they would kill and plunder. This imparted the idea of exclusive property in the soil, and created an attachment for a fixed residence. Gradually, fields were opened, houses built, orchards planted, flocks and herds acquired, and slaves bought. The acquisition of these comforts, relieving the body from the torturing wants of cold and hunger, placed the mind in a condition to pursue its improvement.—This, Mr. President, is the true secret of the happy advance which the southern tribes have made in acquiring the arts of civilization; this has fitted them for the reception of schools and missions; and doubtless, the same cause will produce the same effects among the tribes beyond, which it has produced among the tribes on this side of the Mississippi.

"The right of way is indispensable, and the committee have begun with directing a bill to be reported for that purpose. Happily, there are no constitutional objections to it. State rights

are in no danger! The road which is contemplated will trespass upon the soil, or infringe upon the jurisdiction of no State whatsoever. It runs a course and a distance to avoid all that; for it begins upon the outside line of the outside State, and runs directly off towards the setting sun—far away from all the States. The Congress and the Indians are alone to be consulted, and the statute book is full of precedents. Protesting against the necessity of producing precedents for an act in itself pregnant with propriety, I will yet name a few in order to illustrate the policy of the government, and show its readiness to make roads through Indian countries to facilitate the intercourse of its citizens, and even upon foreign territory to promote commerce and national communications."

Precedents were then shown. 1. A road from Nashville, Tennessee, through the Chicasaw and Choctaw tribes, to Natchez, 1806; 2, a road through the Creek nations, from Athens, in Georgia, to the 31st degree of north latitude, in the direction to New Orleans, 1806, and continued by act of 1807, with the consent of the Spanish government, through the then Spanish territory of West Florida to New Orleans; 3, three roads through the Cherokee nation, to open an intercourse between Georgia, Tennessee, and the lower Mississippi; and more than twenty others upon the territory of the United States. But the precedent chiefly relied upon was that from Athens through the Creek Indian territory and the Spanish dominions to New Orleans. It was up to the exigency of the occasion in every particular—being both upon Indian territory within our dominions, and upon foreign territory beyond them. The road I wanted fell within the terms of both these qualifications. It was to pass through tribes within our own territory, until it reached the Arkansas River: there it met the foreign boundary established by the treaty of 1819, which gave away, not only Texas, but half the Arkansas besides; and the bill which I brought in provided for continuing the road, with the assent of Mexico, from this boundary to Santa Fé, on the Upper del Norte. I deemed it fair to give additional emphasis to this precedent, by showing that I had it from Mr. Jefferson, and said:

"For a knowledge of this precedent, I am indebted to a conversation with Mr. Jefferson himself. In a late excursion to Virginia, I availed myself of a broken day to call and pay my respects to that patriarchal statesman. The individual must manage badly, Mr. President, who can find himself in the presence of that great man, and retire from it without bringing off some fact, or some maxim, of eminent utility to the human race. I trust that I did not so manage. I trust that, in bringing off a fact which led to the discovery of the precedent, which is to remove the only serious objection to the road in question, I have done a service, if not to the human family, at least to the citizens of the two greatest Republics in the world. It was on the evening of Christmas day that I called upon Mr. Jefferson. The conversation, among other things, turned upon roads. He spoke of one from Georgia to New Orleans, made during the last term of his own administration. He said there was a manuscript map of it in the library of Congress (formerly his own), bound up in a certain volume of maps, which he described to me. On my return to Washington, I searched the statute book, and I found the acts which authorized the road to be made: they are the same which I have just read to the Senate. I searched the Congress Library, and I found the volume of maps which he had described; and here it is (presenting a huge folio), and there is the map of the road from Georgia to New Orleans, more than two hundred miles of which, marked in blue ink, is traced through the then dominions of the King of Spain!"

The foreign part of the road was the difficulty and was not entirely covered by the precedent. That was a road to our own city, and no other direct territorial way from the Southern States than through the Spanish province of West Florida: this was a road to be, not only on foreign territory, but to go to a foreign country. Some Senators, favorable to the bill, were startled at it, and Mr. Lloyd, of Massachusetts, moved to strike out the part of the section which provided for this ex-territorial national highway; but not in a spirit of hostility to the bill itself providing for protection to a branch of commerce. Mr. Lowrie, of Pennsylvania, could not admit the force of the objection, and held it to be only a modification of what was now done for the protection of commerce—the substitution of land for water; and instanced the sums annually spent in maintaining a fleet in the Mediterranean Sea, and in the most remote oceans for the same purpose. Mr. Van Buren, thought the government was bound to extend the same protection to this branch of trade as to any other; and the road upon the foreign territory was only to be marked out, not made. Mr. Macon thought the question no great matter. Formerly Indian traders followed "*traces*

now they must have roads. He did not care for precedents: they are generally good or bad as they suit or cross our purposes. The case of the road made by Mr. Jefferson was different. That road was made among Indians comparatively civilized, and who had some notions of property. But the proposed road now to be marked out would pass through wild tribes who think of nothing but killing and robbing a white man the moment they see him, and would not be restrained by treaty obligations even if they entered into them. Col. Johnson, of Kentucky, had never hesitated to vote the money which was necessary to protect the lives or property of our sea-faring men, or for Atlantic fortifications, or to suppress piracies. We had, at this session voted $500,000 to suppress piracy in the West Indies. We build ships of war, erect light-houses, spend annual millions for the protection of ocean commerce; and he could not suppose that the sum proposed in this bill for the protection of an inland branch of trade so valuable to the West could be denied. Mr. Kelly, of Alabama, said the great object of the bill was to cherish and foster a branch of commerce already in existence. It is carried on by land through several Indian tribes. To be safe, a road must be had—a right of way—"*a trace*," if you please. To answer its purpose, this road, or "*trace*," must pass the boundary of the United States, and extend several hundred miles through the wilderness country, in the Mexican Republic to the settlements with which the traffic must be carried on. It may be well to remember that the Mexican government is in the germ of its existence, struggling with difficulties that we have long since surmounted, and may not feel it convenient to make the road, and that it is enough to permit us to mark it out upon her soil; which is all that this bill proposes to do within her limits. Mr. Smith, of Maryland, would vote for the bill. The only question with him was, whether commerce could be carried on to advantage on the proposed route; and, being satisfied that it could be, he should vote for the bill. Mr. Brown, of Ohio (Ethan A.), was very glad to hear such sentiments from the Senator from Maryland, and hoped that a reciprocal good feeling would always prevail between different sections of the Union. He thought there could be no objection to the bill, and approved the policy of getting the road upon Mexican territory with the consent of the Mexican government. The bill passed the Senate by a large vote—30 to 12; and these are the names of the Senators voting for and against it:

YEAS.—Messrs. Barton, Benton, Bouligny, Brown, D'Wolf, Eaton, Edwards, Elliott, Holmes of Miss., Jackson (the General), Johnson of Kentucky, Johnston of Lou., Kelly, Knight, Lanman, Lloyd of Mass., Lowrie, McIlvaine, McLean, Noble, Palmer, Parrott, Ruggles, Seymour, Smith, Talbot, Taylor, Thomas, Van Buren, Van Dyke—30.

NAYS.—Messrs. Branch, Chandler, Clayton, Cobb, Gaillard, Hayne, Holmes of Maine, King of Ala., King of N. Y., Macon, Tazewell, Williams—12.

It passed the House of Representatives by a majority of thirty—received the approving signature of Mr. Monroe, among the last acts of his public life—was carried into effect by his successor, Mr. John Quincy Adams—and this road has remained a thoroughfare of commerce between Missouri and New Mexico, and all the western internal provinces ever since.

CHAPTER XVII.

PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTION IN THE ELECTORAL COLLEGES.

FOUR candidates were before the people for the office of President—General Jackson, Mr. John Quincy Adams, Mr. William H. Crawford, and Mr. Henry Clay. Mr. Crawford had been nominated in a caucus of democratic members of Congress; but being a minority of the members, and the nomination not in accordance with public opinion, it carried no authority along with it, and was of no service to the object of its choice. General Jackson was the candidate of the people, brought forward by the masses. Mr. Adams and Mr. Clay were brought forward by bodies of their friends in different States. The whole number of electoral votes was 261 of which it required 131 to make an election. No one had that number. General Jackson was the highest on the list, and had 99 votes; Mr. Adams 84; Mr. Crawford 41; Mr. Clay 37. No one having a majority of the whole of electors, the election devolved upon the House of

Representatives; of which an account will be given in a separate chapter.

In the vice-presidential election it was different. Mr. John C. Calhoun (who in the beginning of the canvass had been a candidate for the Presidency, but had been withdrawn by his friends in Pennsylvania, and put forward for Vice-President), received 182 votes in the electoral college, and was elected. Mr. Nathan Sandford, Senator in Congress from New-York, had been placed on the ticket with Mr. Clay, and received 30 votes. The 24 votes of Virginia were given to Mr. Macon, as a compliment, he not being a candidate, and having refused to become one. The nine votes of Georgia were given to Mr. Van Buren, also as a compliment, he not being on the list of candidates. Mr. Albert Gallatin had been nominated in the Congress caucus with Mr. Crawford, but finding the proceedings of that caucus unacceptable to the people he had withdrawn from the canvass. Mr. Calhoun was the only substantive vice-presidential candidate before the people, and his election was an evidence of good feeling in the North towards southern men—he receiving the main part of his votes from that quarter—114 votes from the non-slaveholding States, and only 68 from the slaveholding. A southern man, and a slaveholder, Mr. Calhoun was indebted to northern men and non-slaveholders, for the honorable distinction of an election in the electoral colleges—the only one in the electoral colleges—the only one on all the lists of presidential and vice-presidential candidates who had that honor. Surely there was no disposition in the free States at that time to be unjust, or unkind to the South.

CHAPTER XVIII.

DEATH OF JOHN TAYLOR, OF CAROLINE.

For by that designation was discriminated, in his own State, the eminent republican statesman of Virginia, who was a Senator in Congress in the first term of General Washington's administration, and in the last term of Mr. Monroe—and who, having voluntarily withdrawn himself from that high station during the intermediate thirty years, devoted himself to the noble pursuits of agriculture, literature, the study of political economy, and the service of his State or county when called by his fellow-citizens. Personally I knew him but slightly, our meeting in the Senate being our first acquaintance, and our senatorial association limited to the single session of which he was a member—1823–24;—at the end of which he died. But all my observation of him, and his whole appearance and deportment, went to confirm the reputation of his individuality of character, and high qualities of the head and the heart. I can hardly figure to myself the ideal of a republican statesman more perfect and complete than he was in reality:—plain and solid, a wise counsellor, a ready and vigorous debater, acute and comprehensive, ripe in all historical and political knowledge, innately republican—modest, courteous, benevolent, hospitable—a skilful, practical farmer, giving his time to his farm and his books, when not called by an emergency to the public service—and returning to his books and his farm when the emergency was over. His whole character was announced in his looks and deportment, and in his uniform (senatorial) dress—the coat, waistcoat, and pantaloons of the same "London brown," and in the cut of a former fashion—beaver hat with ample brim—fine white linen—and a gold-headed cane, carried not for show, but for use and support when walking and bending under the heaviness of years. He seemed to have been cast in the same mould with Mr. Macon, and it was pleasant to see them together, looking like two Grecian sages, and showing that regard for each other which every one felt for them both. He belonged to that constellation of great men which shone so brightly in Virginia in his day, and the light of which was not limited to Virginia, or our America, but spread through the bounds of the civilized world. He was the author of several works, political and agricultural, of which his *Arator* in one class, and his *Construction Construed* in another, were the principal—one adorning and exalting the plough with the attributes of science; the other exploring the confines of the federal and the State governments, and presenting a mine of constitutional law very profitably to be examined by the political student who will not be repulsed from a banquet of rich

ideas, by the quaint Sir Edward Coke style—(the only point of resemblance between the republican statesman, and the crown officer of Elizabeth and James)—in which it is dressed. Devotion to State rights was the ruling feature of his policy; and to keep both governments, State and federal, within their respective constitutional orbits, was the labor of his political life.

In the years 1798 and '99, Mr. Taylor was a member of the General Assembly of his State, called into service by the circumstances of the times; and was selected on account of the dignity and gravity of his character, his power and readiness in debate, and his signal devotion to the rights of the States, to bring forward those celebrated resolutions which Mr. Jefferson conceived, which his friends sanctioned, which Mr. Madison drew up, and which "John Taylor, of Caroline," presented;—which are a perfect exposition of the principles of our duplicate form of government, and of the limitations upon the power of the federal government;—and which, in their declaration of the unconstitutionality of the alien and sedition laws, and appeal to other States for their co-operation, had nothing in view but to initiate a State movement by two-thirds of the States (the number required by the fifth article of the federal constitution), to amend, or authoritatively expound the constitution;—the idea of forcible resistance to the execution of any act of Congress being expressly disclaimed at the time.

CHAPTER XIX.

PRESIDENTIAL ELECTION IN THE HOUSE OF REPRESENTATIVES.

It has already been shown that the theory of the constitution, and its practical working, was entirely different in the election of President and Vice-President—that by the theory, the people were only to choose electors, to whose superior intelligence the choice of fit persons for these high stations was entirely committed—and that, in practice, this theory had entirely failed from the beginning. From the very first election the electors were made subordinate to the people, having no choice of their own, and pledged to deliver their votes for a particular person, according to the will of those who elected them. Thus the theory had failed in its application to the electoral college; but there might be a second or contingent election, and has been; and here the theory of the constitution has failed again. In the event of no choice being made by the electors, either for want of a majority of electoral votes being given to any one, or on account of an equal majority for two, the House of Representatives became an electoral college for the occasion, limited to a choice out of the five highest (before the constitution was amended), or the two highest having an equal majority. The President and Vice-President were not then voted for separately, or with any designation of their office. All appeared upon the record as presidential nominees—the highest on the list having a majority, to be President; the next highest, also having a majority, to be Vice-President; but the people, from the beginning, had discriminated between the persons for these respective places, always meaning one on their ticket for President, the other for Vice-President. But, by the theory of the constitution and its words, those intended Vice-Presidents might be elected President in the House of Representatives, either by being among the five highest when there was no majority, or being one of two in an equal majority. This theory failed in the House of Representatives from the first election, the *demos krateo* principle—the people to govern—prevailing there as in the electoral colleges, and overruling the constitutional design in each.

The first election in the House of Representatives was that of Mr. Jefferson and Mr. Burr, in the session of 1800-1801. These gentlemen had each a majority of the whole number of electoral votes, and an equal majority —73 each —Mr. Burr being intended for Vice-President. One of the contingencies had then occurred in which the election went to the House of Representatives. The federalists had acted more wisely, one of their State electoral colleges (that of Rhode Island), having withheld a vote from the intended Vice-President on their side, Mr. Charles Colesworth Pinckney, of South Carolina; and so prevented an equality of votes between him and Mr. John Adams. It would have been entirely constitutional in the House of Representatives to have elected Mr. Burr President, but at the same time, a gross violation of the democratic principle, which requires the will of the majority to be complied with.

The federal States undertook to elect Mr. Burr, and kept up the struggle for seven days and nights, and until the thirty-sixth ballot. There were sixteen States, and it required the concurrence of nine to effect an election. Until the thirty-sixth Mr. Jefferson had eight, Mr. Burr six, and two were divided. On the thirty-sixth ballot Mr. Jefferson had ten States and was elected. General Hamilton, though not then in public life, took a decided part in this election, rising above all personal and all party considerations, and urging the federalists from the beginning to vote for Mr. Jefferson. Thus the democratic principle prevailed. The choice of the people was elected by the House of Representatives; and the struggle was fatal to those who had opposed that principle. The federal party was broken down, and at the ensuing Congress elections, was left in a small minority. Its candidate at the ensuing presidential election received but fourteen votes out of one hundred and seventy-six. Burr, in whose favor, and with whose connivance the struggle had been made, was ruined—fell under the ban of the republican party, disappeared from public life, and was only seen afterwards in criminal enterprises, and ending his life in want and misery. The constitution itself, in that particular (the mode of election), was broken down, and had to be amended so as to separate the presidential from the vice-presidential ticket, giving each a separate vote; and in the event of no election by the electoral colleges, sending each to separate houses—the three highest on the presidential lists to the House of Representatives,—the two highest on the vice-presidential, to the Senate. And thus ended the first struggle in the House of Representatives (in relation to the election of President), between the theory of the constitution and the democratic principle—triumph to the principle, ruin to its opposers, and destruction to the clause in the constitution, which permitted such a struggle.

The second presidential election in the House of Representatives was after the lapse of a quarter of a century, and under the amended constitution, which carried the three highest on the list to the House when no one had a majority of the electoral votes. General Jackson, Mr. John Quincy Adams, and Mr. William H. Crawford, were the three, their respective votes being 99, 84, 41; and in this case a second struggle took place between the theory of the constitution and the democratic principle; and with eventual defeat to the opposers of that principle, though temporarily successful. Mr. Adams was elected, though General Jackson was the choice of the people, having received the greatest number of votes, and being undoubtedly the second choice of several States whose votes had been given to Mr. Crawford and Mr. Clay (at the general election). The representatives from some of these States gave the vote of the State to Mr. Adams, upon the argument that he was best qualified for the station, and that it was dangerous to our institutions to elect a military chieftain—an argument which assumed a guardianship over the people, and implied the necessity of a superior intelligence to guide them for their own good. The election of Mr. Adams was perfectly constitutional, and as such fully submitted to by the people; but it was also a violation of the *demos krateo* principle; and that violation was signally rebuked. All the representatives who voted against the will of their constituents, lost their favor, and disappeared from public life. The representation in the House of Representatives was largely changed at the first general election, and presented a full opposition to the new President. Mr. Adams himself was injured by it, and at the ensuing presidential election was beaten by General Jackson more than two to one—178 to 83. Mr. Clay, who took the lead in the House for Mr. Adams, and afterwards took upon himself the mission of reconciling the people to his election in a series of public speeches, was himself crippled in the effort, lost his place in the democratic party, joined the whigs (then called national republicans), and has since presented the disheartening spectacle of a former great leader figuring at the head of his ancient foes in all their defeats, and lingering on their rear in their victories. The democratic principle was again victor over the theory of the constitution, and great and good were the results that ensued. It vindicated the *demos* in their right and their power, and showed that the prefix to the constitution, "We, the people, do ordain and establish," &c., may also be added to its administration, showing them to be as able to administer as to make that instrument. It re-established parties upon the basis of principle, and drew anew party lines, then almost obliterated under

the fusion of parties during the "era of good feeling," and the efforts of leading men to make personal parties for themselves. It showed the conservative power of our government to lie in the people, more than in its constituted authorities. It showed that they were capable of exercising the function of self-government. It assured the supremacy of the democracy for a long time, and until temporarily lost by causes to be shown in their proper place. Finally, it was a caution to all public men against future attempts to govern presidential elections in the House of Representatives.

It is no part of the object of this "Thirty Years' View" to dwell upon the conduct of individuals, except as showing the causes and the consequences of events; and, under this aspect, it becomes the gravity of history to tell that, in these two struggles for the election of President, those who struggled against the democratic principle lost their places on the political theatre, —the mere voting members being put down in their States and districts, and the eminent actors for ever ostracised from the high object of their ambition. A subordinate cause may have had its effect, and unjustly, in prejudicing the public mind against Mr. Adams and Mr. Clay. They had been political adversaries, had co-operated in the election, and went into the administration together. Mr. Clay received the office of Secretary of State from Mr. Adams, and this gave rise to the imputation of a bargain between them.

It came within my knowledge (for I was then intimate with Mr. Clay), long before the election, and probably before Mr. Adams knew it himself, that Mr. Clay intended to support him against General Jackson; and for the reasons afterward averred in his public speeches. I made this known when occasions required me to speak of it, and in the presence of the friends of the impugned parties. It went into the newspapers upon the information of these friends, and Mr. Clay made me acknowledgments for it in a letter, of which this is the exact copy:

"*I have received a paper published on the 20th ultimo, at Lemington, in Virginia, in which is contained an article stating that you had, to a gentleman of that place, expressed your disbelief of a charge injurious to me, touching the late presidential election, and that I had communicated to you unequivocally, before the 15th of December*, 1824, *my determination to vote for Mr. Adams and not for General Jackson. Presuming that the publication was with your authority, I cannot deny the expression of proper acknowledgments for the sense of justice which has prompted you to render this voluntary and faithful testimony.*"

This letter, of which I now have the original, was dated at Washington City, December 6th, 1827—that is to say, in the very heat and middle of the canvass in which Mr. Adams was beaten by General Jackson, and when the testimony could be of most service to him. It went the rounds of the papers, and was quoted and relied upon in debates in Congress, greatly to the dissatisfaction of many of my own party. There was no mistake in the date, or the fact. I left Washington the 15th of December, on a visit to my father-in-law, Colonel James McDowell, of Rockbridge county, Virginia, where Mrs. Benton then was; and it was before I left Washington that I learned from Mr. Clay himself that his intention was to support Mr. Adams. I told this at *that* time to Colonel McDowell, and any friends that chanced to be present, and gave it to the public in a letter which was copied into many newspapers, and is preserved in Niles' Register. I told it as my *belief* to Mr Jefferson on Christmas evening of the same year, when returning to Washington and making a call on that illustrious man at his seat, Monticello; and believing then that Mr. Adams would be elected, and, from the necessity of the case, would have to make up a mixed cabinet, I expressed that belief to Mr. Jefferson, using the term, familiar in English history, of "*broad bottomed;*" and asked him how it would do? He answered, "Not at all—would never succeed—would ruin all engaged in it." Mr. Clay told his intentions to others of his friends from an early period, but as they remained his friends, their testimony was but little heeded. Even my own, in the violence of party, and from my relationship to Mrs. Clay, seemed to have but little effect. The imputation of "bargain" stuck, and doubtless had an influence in the election. In fact, the circumstances of the whole affair—previous antagonism between the parties, actual support in the election, and acceptance of high office, made up a case against Messrs. Adams and Clay which it was hardly safe for public men to create and to brave, however strong in their own consciousness of integrity. Still, the great objection to

the election of Mr. Adams was in the violation of the principle *demos krateo;* and in the question which it raised of the capacity of the *demos* to choose a safe President for themselves. A letter which I wrote to the representative from Missouri, before he gave the vote of the State to Mr. Adams, and which was published immediately afterwards, placed the objection upon this high ground; and upon it the battle was mainly fought, and won. It was a victory of principle, and should not be disparaged by the admission of an unfounded and subordinate cause.

This presidential election of 1824 is remarkable under another aspect—as having put an end to the practice of caucus nominations for the Presidency by members of Congress. This mode of concentrating public opinion began to be practised as the eminent men of the Revolution, to whom public opinion awarded a preference, were passing away, and when new men, of more equal pretensions, were coming upon the stage. It was tried several times with success and general approbation, public sentiment having been followed, and not led, by the caucus. It was attempted in 1824, and failed, the friends of Mr. Crawford only attending—others not attending, not from any repugnance to the practice, as their previous conduct had shown, but because it was known that Mr. Crawford had the largest number of friends in Congress, and would assuredly receive the nomination. All the rest, therefore, refused to go into it: all joined in opposing the "caucus candidate," as Mr. Crawford was called; all united in painting the intrigue and corruption of these caucus nominations, and the anomaly of members of Congress joining in them. By their joint efforts they succeeded, and justly in the fact though not in the motive, in rendering these Congress caucus nominations odious to the people, and broke them down. They were dropped, and a different mode of concentrating public opinion was adopted—that of party nominations by conventions of delegates from the States. This worked well at first, the will of the people being strictly obeyed by the delegates, and the majority making the nomination. But it quickly degenerated, and became obnoxious to all the objections to Congress caucus nominations, and many others besides. Members of Congress still attended them, either as delegates or as lobby managers. Persons attended as delegates who had no constituency. Delegates attended upon equivocal appointments. Double sets of delegates sometimes came from the State, and either were admitted or repulsed, as suited the views of the majority. Proxies were invented. Many delegates attended with the sole view of establishing a claim for office, and voted accordingly. The two-thirds rule was invented, to enable the minority to control the majority; and the whole proceeding became anomalous and irresponsible, and subversive of the will of the people, leaving them no more control over the nomination than the subjects of kings have over the birth of the child which is born to rule over them. King Caucus is as potent as any other king in this respect; for whoever gets the nomination—no matter how effected—becomes the candidate of the party, from the necessity of union against the opposite party, and from the indisposition of the great States to go into the House of Representatives to be balanced by the small ones. This is the mode of making Presidents, practised by both parties now. It is the virtual election! and thus the election of the President and Vice-President of the United States has passed—not only from the college of electors to which the constitution confided it, and from the people to whom the practice under the constitution gave it, and from the House of Representatives which the constitution provided as ultimate arbiter—but has gone to an anomalous, irresponsible body, unknown to law or constitution, unknown to the early ages of our government, and of which a large proportion of the members composing it, and a much larger proportion of interlopers attending it, have no other view either in attending or in promoting the nomination of any particular man, than to get one elected who will enable them to eat out of the public crib—who will give them a key to the public crib.

The evil is destructive to the rights and sovereignty of the people, and to the purity of elections. The remedy is in the application of the democratic principle—the people to vote direct for President and Vice-President; and a second election to be held immediately between the two highest, if no one has a majority of the whole number on the first trial. But this would require an amendment of the constitution, not to be effected but by a concurrence of two thirds of each house of Congress, and the sanction of

three fourths of the States—a consummation to which the strength of the people has not yet been equal, but of which there is no reason to despair. The great parliamentary reform in Great Britain was only carried after forty years of continued, annual, persevering exertion. Our constitutional reform, in this point of the presidential election, may require but a few years; in the meanwhile I am for the people to *select*, as well as *elect*, their candidates, and for a reference to the House to choose one out of three presented by the people, instead of a caucus nomination of whom it pleased. The House of Representatives is no longer the small and dangerous electoral college that it once was. Instead of thirteen States we now have thirty-one; instead of sixty-five representatives, we have now above two hundred. Responsibility in the House is now well established, and political ruin, and personal humiliation, attend the violation of the will of the State. No man could be elected now, or endeavor to be elected (after the experience of 1800 and 1824), who is not at the head of the list, and the choice of a majority of the Union. The lesson of those times would deter imitation, and the democratic principle would again crush all that were instrumental in thwarting the public will. There is no longer the former danger from the House of Representatives, nor any thing in it to justify a previous resort to such assemblages as our national conventions have got to be. The House is legal and responsible, which the convention is not, with a better chance for integrity, as having been actually elected by the people; and more restrained by position, by public opinion, and a clause in the constitution from the acceptance of office from the man they elect. It is the constitutional umpire; and until the constitution is amended, I am for acting upon it as it is.

CHAPTER XX.

THE OCCUPATION OF THE COLUMBIA.

This subject had begun to make a lodgment in the public mind, and I brought a bill into the Senate to enable the President to possess and retain the country. The joint occupation treaty of 1818 was drawing to a close, and it was my policy to terminate such occupation, and hold the Columbia (or Oregon) exclusively, as we had the admitted right to do while the question of title was depending. The British had no title, and were simply working for a division—for the right bank of the river, and the harbor at its mouth—and waiting on *time* to ripen their joint occupation into a claim for half. I knew this, and wished to terminate a joint tenancy which could only be injurious to ourselves while it lasted, and jeopard our rights when it terminated. The bill which I brought in proposed an appropriation to enable the President to act efficiently, with a detatchment of the army and navy; and in the discussion of this bill the whole question of title and of policy came up; and, in a reply to Mr. Dickerson, of New Jersey, I found it to be my duty to defend both. I now give some extracts from that reply, as a careful examination of the British pretension, founded upon her own exhibition of title, and showing that she had none south of forty-nine degrees, and that we were only giving her a claim, by putting her possession on an equality with our own. These extracts will show the history of the case as it then stood—as it remained invalidated in all subsequent discussion—and according to which, and after twenty years, and when the question had assumed a war aspect, it was finally settled. The bill did not pass, but received an encouraging vote—fourteen senators voting favorably to it. They were:

Messrs. Barbour, Benton, Bouligny, Cobb, Hayne, Jackson (the General), Johnson of Kentucky, Johnston of Louisiana, Lloyd of Massachusetts, Mills, Noble, Ruggles, Talbot, Thomas.

"Mr. Benton, in reply to Mr. Dickerson, said that he had not intended to speak to this bill. Always unwilling to trespass upon the time and patience of the Senate, he was particularly so at this moment, when the session was drawing to a close, and a hundred bills upon the table were each demanding attention. The occupation of the Columbia River was a subject which had engaged the deliberations of Congress for four years past, and the minds of gentlemen might be supposed to be made up upon it. Resting upon this belief, Mr. B., as reporter of the bill, had limited himself to the duty of watching its progress, and of holding himself in readiness to answer any inquiries which might be put. Inquiries he certainly expected; but a general assault, at this late stage of the session, upon the principle, the policy, and the details of the

bill, had not been anticipated. Such an assault had, however, been made by the senator from New Jersey (Mr. D.), and Mr. B. would be unfaithful to his duty if he did not repel it. In discharging this duty, he would lose no time in going over the gentleman's calculations about the expense of getting a member of Congress from the Oregon to the Potomac; nor would he solve his difficulties about the shortest and best route—whether Cape Horn should be doubled, a new route explored under the north pole, or mountains climbed, whose aspiring summits present twelve feet of defying snow to the burning rays of a July sun. Mr. B. looked upon these calculations and problems as so many dashes of the gentleman's wit, and admitted that wit was an excellent article in debate, equally convenient for embellishing an argument, and concealing the want of one. For which of these purposes the senator from New Jersey had amused the Senate with the wit in question, it was not for Mr. B. to say, nor should he undertake to disturb him in the quiet enjoyment of the honor which he had won thereby, and would proceed directly to speak to the merits of the bill.

"It is now, Mr. President, continued Mr. B., precisely two and twenty years since a contest for the Columbia has been going on between the United States and Great Britain. The contest originated with the discovery of the river itself. The moment that we discovered it she claimed it; and without a color of title in her hand, she has labored ever since to overreach us in the arts of negotiation, or to bully us out of our discovery by menaces of war.

"In the year 1790, a citizen of the United States, Capt. Gray, of Boston, discovered the Columbia at its entrance into the sea; and in 1803, Lewis and Clarke were sent by the government of the United States to complete the discovery of the whole river, from its source downwards, and to take formal possession in the name of their government. In 1793 Sir Alexander McKenzie had been sent from Canada by the British Government to effect the same object; but he missed the sources of the river, fell upon the *Tacoutche Tesse*, and struck the Pacific about five hundred miles to the north of the mouth of the Columbia.

"In 1803, the United States acquired Louisiana, and with it an open question of boundaries for that vast province. On the side of Mexico and Florida this question was to be settled with the King of Spain; on the north and northwest, with the King of Great Britain. It happened in the very time that we were signing a treaty in Paris for the acquisition of Louisiana, that we were signing another in London for the adjustment of the boundary line between the northwest possessions of the United States and the King of Great Britain. The negotiators of each were ignorant of what the others had done; and on remitting the two treaties to the Senate of the United States for ratification, that for the purchase of Louisiana was ratified without restriction; the other, with the exception of the fifth article. It was this article which adjusted the boundary line between the United States and Great Britain, from the Lake of the Woods to the head of the Mississippi; and the Senate refused to ratify it, because, by possibility, it might jeopard the northern boundary of Louisiana. The treaty was sent back to London, the fifth article expunged; and the British Government, acting then as upon a late occasion, rejected the whole treaty, when it failed in securing the precise advantage of which it was in search.

"In the year 1807, another treaty was negotiated between the United States and Great Britain. The negotiators on both sides were then possessed of the fact that Louisiana belonged to the United States, and that her boundaries to the north and west were undefined. The settlement of this boundary was a point in the negotiation, and continued efforts were made by the British plenipotentiaries to overreach the Americans, with respect to the country west of the Rocky Mountains. Without presenting any claim, they endeavored to '*leave a nest egg for future pretensions in that quarter.*' (*State Papers*, 1822–3.) Finally, an article was agreed to. The forty-ninth degree of north latitude was to be followed west, as far as the territories of the two countries extended in that direction, with a proviso against its application to the country west of the Rocky Mountains. This treaty shared the fate of that of 1803. It was never ratified. For causes unconnected with the questions of boundary, it was rejected by Mr. Jefferson without a reference to the Senate.

"At Ghent, in 1814, the attempts of 1803 and 1807 were renewed. The British plenipotentiaries offered articles upon the subject of the boundary, and of the northwest coast, of the same character with those previously offered; but nothing could be agreed upon, and nothing upon the subject was inserted in the treaty signed at that place.

"At London, in 1818, the negotiations upon this point were renewed; and the British Government, for the first time, uncovered the ground upon which its pretensions rested. Its plenipotentiaries, Mr. Robinson and Mr. Goulbourn, asserted (to give them the benefit of their own words, as reported by Messrs. Gallatin and Rush) 'That former voyages, and principally that of Captain Cook, gave to Great Britain the rights derived from discovery; and they alluded to purchases from the natives south of the river Columbia, which they alleged to have been made prior to the American Revolution. They did not make any formal proposition for a boundary, but intimated that the *river* itself was the most convenient that could be adopted, and that they would not agree to any which did not give them the *harbor* at the *mouth* of the *river* in common with the United States.'—*Letter from Messrs. Gallatin and Rush, October* 20th, 1820.

To this the American plenipotentiaries an-

swered, in a way better calculated to encourage than to repulse the groundless pretensions of Great Britain. 'We did not assert (continue these gentlemen in the same letter), we did not assert that the United States had a perfect right to that country, but insisted that their claim was at least good against Great Britain. We did not know with precision what value our government set on the country to the westward of these mountains; but we were not authorized to enter into any agreement which should be tantamount to an abandonment of the claim to it. It was at last agreed, but, as we thought, with some *reluctance* on the part of the *British* plenipotentiaries, that the country on the northwest coast, claimed by either party, should, without prejudice to the claims of either, and for a *limited* time, be opened for the purposes of trade to the inhabitants of both countries.'

"The substance of this agreement was inserted in the convention of October, 1818. It constitutes the third article of that treaty, and is the same upon which the senator from New Jersey (Mr. Dickerson) relies for excluding the United States from the occupation of the Columbia.

"In subsequent negotiations, the British agents further rested their claim upon the discoveries of McKenzie, in 1793, the seizure of Astoria during the late war, and the Nootka Sound Treaty, of 1790.

"Such an exhibition of title, said Mr. B., is ridiculous, and would be contemptible in the hands of any other power than that of Great Britain. Of the five grounds of claim which she has set up, not one of them is tenable against the slightest examination. Cook never saw, much less took possession of any part of the northwest coast of America, in the latitude of the Columbia River. All his discoveries were far north of that point, and not one of them was followed up by possession, without which the fact of discovery would confer no title. The Indians were not even named from whom the purchases are stated to have been made anterior to the Revolutionary War. Not a single particular is given which could identify a transaction of the kind. The only circumstance mentioned applies to the locality of the Indians supposed to have made the sale; and that circumstance invalidates the whole claim. They are said to have resided to the '*south*' of the Columbia; by consequence they did not reside *upon* it, and could have no right to sell a country of which they were not the possessors.

"McKenzie was sent out from Canada, in the year 1793, to discover, at its head, the river which Captain Gray had discovered at its mouth, three years before. But McKenzie missed the object of his search, and struck the Pacific five hundred miles to the north, as I have already stated. The seizure of Astoria, during the war, was an operation of arms, conferring no more title upon Great Britain to the Columbia, than the capture of Castine and Detroit gave her to Maine and Michigan. This new ground of claim was set up by Mr. Bagot, his Britannic Majesty's minister to this republic, in 1817, and set up in a way to contradict and relinquish all their other pretended titles. Mr. Bagot was remonstrating against the occupation, by the United States, of the Columbia River, and reciting that it had been taken possession of, in his Majesty's name, during the late war, '*and had* SINCE *been* CONSIDERED *as forming a part of his Majesty's dominions.* The word '*since*,' is exclusive of all previous pretension, and the Ghent Treaty, which stipulates for the restoration of all the captured posts, is a complete extinguisher to this idle pretension. Finally, the British negotiators have been driven to take shelter under the Nootka Sound Treaty of 1790. The character of that treaty was well understood at the time that it was made, and its terms will speak for themselves at the present day. It was a treaty of concession, and not of acquisition of rights, on the part of Great Britain. It was so characterized by the opposition, and so admitted to be by the ministry, at the time of its communication to the British Parliament.

[Here Mr. B. read passages from the speeches of Mr. Fox and Mr. Pitt, to prove the character of this Treaty.]

"Mr. Fox said, 'What, then, was the extent of our rights before the convention—(whether admitted or denied by Spain was of no consequence)—and to what extent were they now secured to us? We possessed and exercised the free navigation of the Pacific Ocean, without restraint or limitation. We possessed and exercised the right of carrying on fisheries in the South Seas equally unlimited. This was no barren right, but a right of which we had availed ourselves, as appeared by the papers on the table, which showed that the produce of it had increased, in five years, from twelve to ninety-seven thousand pounds sterling. This estate we had, and were daily improving; it was not to be disgraced by the name of an acquisition. The admission of part of these rights by Spain, was all we had obtained. Our right, before, was to settle in any part of the South or Northwest Coast of America, not fortified against us by previous occupancy; and we were now restricted to settle in certain places only, and under certain restrictions. This was an important concession on our part. Our rights of fishing extended to the whole ocean, and now it, too, was limited, and to be carried on within certain distances of the Spanish settlements. Our right of making settlements was not, as now, a right to build huts, but to plant colonies, if we thought proper. Surely these were not acquisitions, or rather conquests, as they must be considered, if we were to judge by the triumphant language respecting them, but great and important concessions. By the third article, we are authorized to navigate the Pacific Ocean and South Seas, unmolested, for the purpose of carrying on our fisheries, and to land on the unsettled coasts, for

the purpose of trading with the natives; but, after this pompous recognition of right to navigation, fishery, and commerce, comes another article, the sixth, which takes away the right of landing, and erecting even temporary huts, for any purpose but that of carrying on the fishery, and amounts to a complete dereliction of all right to settle in any way for the purpose of commerce with the natives.'—*British Parliamentary History*, Vol. 28, p. 990.

"Mr. Pitt, in reply. 'Having finished that part of Mr. Fox's speech which referred to the reparation, Mr. Pitt proceeded to the next point, namely, that gentleman's argument to prove, that the other articles of the convention were mere concessions, and not acquisitions. In answer to this, Mr. Pitt maintained, that, though what this country had gained consisted not of new rights, it certainly did of new advantages. We had, before, a right to the Southern whale fishery, and a right to navigate and carry on fisheries in the Pacific Ocean, and to trade on the coasts of any part of Northwest America; but that right not only had not been acknowledged, but disputed and resisted: whereas, by the convention, it was secured to us—a circumstance which, though no new right, was a new advantage.'—*Same*—p. 1002.

"But, continued Mr. Benton, we need not take the character of the treaty even from the high authority of these rival leaders in the British Parliament. The treaty will speak for itself. I have it in my hand, and will read the article relied upon to sustain the British claim to the Columbia River.

"'ARTICLE THIRD OF THE NOOTKA SOUND TREATY.

"'In order to strengthen the bonds of friendship, and to preserve, in future, a perfect harmony and good understanding between the two contracting parties, it is agreed that their respective subjects shall not be disturbed or molested, either in navigating or carrying on their fisheries in the Pacific Ocean, or in the South Seas, or in landing on the coasts of those seas in places not already occupied, for the purpose of carrying on their commerce with the natives of the country, or of making settlements there; the whole subject, nevertheless, to the restrictions and provisions specified in the three following articles.'

"The particular clause of this article, relied upon by the advocates for the British claim, is that which gives the right of *landing* on parts of the Northwest Coast, not already *occupied*, for the purpose of carrying on *commerce* and making *settlements*. The first inquiry arising upon this clause is, whether the coast, in the latitude of the Columbia River, was unoccupied at the date of the Nootka Sound Treaty? The answer is in the affirmative. The second is, whether the English landed upon this coast while it was so unoccupied? The answer is in the negative; and this answer puts an end to all pretension of British claim founded upon this treaty, without leaving us under the necessity of recurring to the fact that the permission to *land*, and to *make settlements*, so far from contemplating an acquisition of territory, was limited by subsequent restrictions, to the erection of temporary huts for the personal accommodation of fishermen and traders only.

"Mr. B. adverted to the inconsistency, on the part of Great Britain, of following the 49th parallel to the Rocky Mountains, and refusing to follow it any further. He affirmed that the principle which would make that parallel a boundary to the top of the mountain, would carry it out to the Pacific Ocean. He proved this assertion by recurring to the origin of that line. It grew out of the treaty of Utrecht, that treaty which, in 1704, put an end to the wars of Queen Anne and Louis the XIVth and fixed the boundaries of their respective dominions in North America. The tenth article of that treaty was applicable to Louisiana and to Canada. It provided that commissioners should be appointed by the two powers to adjust the boundary between them. The commissioners were appointed, and did fix it. The parallel of 49 degrees was fixed upon as the common boundary from the Lake of the Woods, "*indefinitely to the West.*" This boundary was acquiesced in for a hundred years. By proposing to follow it to the Rocky Mountains, the British Government admits its validity; by refusing to follow it out, they become obnoxious to the charge of inconsistency, and betray a determination to encroach upon the territory of the United States, for the undisguised purpose of selfish aggrandizement.

"The truth is, Mr. President, continued Mr. B., Great Britain has no color of title to the country in question. She sets up none. There is not a paper upon the face of the earth in which a British minister has stated a claim. I speak of the king's ministers, and not of the agents employed by them. The claims we have been examining are thrown out in the conversations and notes of diplomatic agents. No English minister has ever put his name to them, and no one will ever risk his character as a statesman by venturing to do so. The claim of Great Britain is nothing but a naked pretension, founded on the double prospect of benefiting herself and injuring the United States. The fur trader, Sir Alexander McKenzie, is at the bottom of this policy. Failing in his attempt to explore the Columbia River, in 1793, he, nevertheless, urged upon the British Government the advantages of taking it to herself, and of expelling the Americans from the whole region west of the Rocky Mountains. The advice accorded too well with the passions and policy of that government, to be disregarded. It is a government which has lost no opportunity, since the peace of '83, of aggrandizing itself at the expense of the United States. It is a government which listens to the suggestions of its experienced subjects, and thus an individual, in the humble station of

a fur trader, has pointed out the policy which has been pursued by every Minister of Great Britain, from Pitt to Canning, and for the maintenance of which a war is now menaced.

"For a boundary line between the United States and Great Britain, west of the Mississippi, McKenzie proposes the latitude of 45 degrees, because that latitude is necessary to give the Columbia River to Great Britain. His words are: 'Let the line begin where it may on the Mississippi, it must be continued west, till it terminates in the Pacific Ocean, *to the south of the Columbia.*'

"Mr. B. said it was curious to observe with what closeness every suggestion of McKenzie had been followed up by the British Government. He recommended that the Hudson Bay and Northwest Company should be united; and they have been united. He proposed to extend the fur trade of Canada to the shore of the Pacific Ocean; and it has been so extended. He proposed that a chain of trading posts should be formed through the continent, from sea to sea; and it has been formed. He recommended that no boundary line should be agreed upon with the United States, which did not give the Columbia River to the British; and the British ministry declare that none other shall be formed. He proposed to obtain the command of the fur trade from latitude 45 degrees north; and they have it even to the Mandan villages, and the neighborhood of the Council Bluffs. He recommended the expulsion of American traders from the whole region west of the Rocky Mountains, and they are expelled from it. He proposed to command the commerce of the Pacific Ocean; and it will be commanded the moment a British fleet takes position in the mouth of the Columbia. Besides these specified advantages, McKenzie alludes to other '*political considerations*,' which it was not necessary for him to particularize. Doubtless it was not. They were sufficiently understood. They are the same which induced the retention of the northwestern posts, in violation of the treaty of 1783; the same which induced the acquisition of Gibraltar, Malta, the Cape of Good Hope, the Islands of Ceylon and Madagascar; the same which makes Great Britain covet the possession of every commanding position in the four quarters of the globe."

I do not argue the question of title on the part of the United States, but only state it as founded upon—1. Discovery of the Columbia River by Capt. Gray, in 1790; 2. Purchase of Louisiana in 1803; 3. Discovery of the Columbia from its head to its mouth, by Lewis and Clarke, in 1803; 4. Settlement of Astoria, in 1811; 5. Treaty with Spain, 1819; 6. Contiguity and continuity of settlement and possession. Nor do I argue the question of the advantages of retaining the Columbia, and refusing to divide or alienate our territory upon it. I merely state them, and leave their value to result from the enumeration. 1. To keep out a foreign power; 2. To gain a seaport with a military and naval station, on the coast of the Pacific; 3. To save the fur trade in that region, and prevent our Indians from being tampered with by British traders; 4. To open a communication for commercial purposes between the Mississippi and the Pacific; 5. To send the lights of science and of religion into eastern Asia.

CHAPTER XXI.

COMMENCEMENT OF MR. ADAMS'S ADMINISTRATION.

On the 4th of March he delivered his inaugural address, and took the oath of office. That address—the main feature of the inauguration of every President, as giving the outline of the policy of his administration—furnished a topic against Mr. Adams, and went to the reconstruction of parties on the old line of strict, or latitudinous, construction of the constitution. It was the topic of internal national improvement by the federal government. The address extolled the value of such works, considered the constitutional objection as yielding to the force of argument, expressed the hope that every speculative (constitutional) scruple would be solved in a practical blessing; and declared the belief that, in the execution of such works posterity would derive a fervent gratitude to the founders of our Union, and most deeply feel and acknowledge the beneficent action of our government. The declaration of principles which would give so much power to the government, and the danger of which had just been so fully set forth by Mr. Monroe in his veto message on the Cumberland road bill, alarmed the old republicans, and gave a new ground of opposition to Mr. Adams's administration, in addition to the strong one growing out of the election in the House of Representatives, in which the fundamental principle of representative government had been disregarded. This new ground of opposition was greatly strengthened at the delivery of the first annual message, in which the topic of internal improvement was again largely enforced, other subjects recom-

mended which would require a liberal use of constructive powers, and Congress informed that the President had accepted an invitation from the American States of Spanish origin, to send ministers to their proposed Congress on the Isthmus of Panama. It was, therefore, clear from the beginning that the new administration was to have a settled and strong opposition, and that founded in principles of government—the same principles, under different forms, which had discriminated parties at the commencement of the federal government. Men of the old school—survivors of the contest of the Adams and Jefferson times, with some exceptions, divided accordingly—the federalists going for Mr. Adams, the republicans against him, with the mass of the younger generation.

In the Senate a decided majority was against him, comprehending (not to speak of younger men afterwards become eminent,) Mr. Macon of North Carolina, Mr. Tazewell of Virginia, Mr. Van Buren of New-York, General Samuel Smith of Maryland, Mr. Gaillard of South Carolina (the long-continued temporary President of the Senate), Dickerson of New Jersey, Governor Edward Lloyd of Maryland, Rowan of Kentucky, and Findlay of Pennsylvania. In the House of Representatives there was a strong minority opposed to the new President, destined to be increased at the first election to a decided majority: so that no President could have commenced his administration under more unfavorable auspices, or with less expectation of a popular career.

The cabinet was composed of able and experienced men—Mr. Clay, Secretary of State; Mr. Richard Rush, of Pennsylvania, Secretary of the Treasury, recalled from the London mission for that purpose; Mr. James Barbour, of Virginia, Secretary at War; Mr. Samuel L. Southard, of New Jersey, Secretary of the Navy under Mr. Monroe, continued in that place; the same of Mr. John McLean, of Ohio, Postmaster General, and of Mr. Wirt, Attorney General—both occupying the same places respectively under Mr. Monroe, and continued by his successor. The place of Secretary of the Treasury was offered by Mr. Adams to Mr. William H. Crawford, and declined by him—an offer which deserves to be commemorated to show how little there was of personal feeling between these two eminent citizens, who had just been rival candidates for the Presidency of the United States. If Mr. Crawford had accepted the Treasury department, the administration of Mr. John Quincy Adams would have been entirely composed of the same individuals which composed that of Mr. Monroe, with the exception of the two (himself and Mr. Calhoun) elected President and Vice-President; —a fact which ought to have been known to Mons. de Tocqueville, when he wrote, that "Mr. Quincy Adams, on his entry into office, discharged the majority of the individuals who had been appointed by his predecessor."

There was opposition in the Senate to the confirmation of Mr. Clay's nomination to the State department, growing out of his support of Mr. Adams in the election of the House of Representatives, and acceptance of office from him; but overruled by a majority of two to one. The affirmative votes were Messrs. Barton and Benton of Missouri; Mr. Bell of New Hampshire; Messrs. Bouligny and Josiah F. Johnston of Louisiana; Messrs. Chandler and Holmes of Maine; Messrs. Chase and Seymour of Vermont; Messrs. Thomas Clayton and Van Dyke of Delaware; Messrs. DeWolf and Knight of Rhode Island; Mr. Mahlon Dickerson of New Jersey; Mr. Henry W. Edwards of Connecticut; Mr. Gaillard of South Carolina; Messrs. Harrison (the General) and Ruggles of Ohio; Mr. Hendrics of Indiana; Mr. Elias Kent Kane of Illinois; Mr. William R. King of Alabama; Messrs. Edward Lloyd and General Samuel Smith from Maryland; Messrs. James Lloyd and Elijah H. Mills from Massachusetts; Mr. John Rowan of Kentucky; Mr. Van Buren of New-York—27. The negatives were: Messrs. Berrien and Thos. W. Cobb of Georgia; Messrs. Branch and Macon of North Carolina; Messrs. Jackson (the General) and Eaton of Tennessee; Messrs. Findlay and Marks of Pennsylvania; Mr. Hayne of South Carolina; Messrs. David Holmes and Thomas A. Williams of Mississippi; Mr. McIlvaine of New Jersey; Messrs. Littleton W. Tazewell and John Randolph of Virginia; Mr. Jesse B. Thomas of Illinois. Seven senators were absent, one of whom (Mr. Noble of Indiana) declared he should have voted for the confirmation of Mr. Clay, if he had been present; and of those voting for him about the one half were his political opponents.

CHAPTER XXII.

CASE OF MR. LANMAN—TEMPORARY SENATORIAL APPOINTMENT FROM CONNECTICUT.

Mr. Lanman had served a regular term as senator from Connecticut. His term of service expired on the 3d of March of this year, and the General Assembly of the State having failed to make an election of senator in his place, he received a temporary appointment from the governor. On presenting himself to take the oath of office, on the 4th day of March, being the first day of the special senatorial session convoked by the retiring President (Mr. Monroe), according to usage, for the inauguration of his successor; his appointment was objected to, as not having been made in a case in which a governor of a State could fill a vacancy by making a temporary appointment. Mr. Tazewell was the principal speaker against the validity of the appointment, arguing against it both on the words of the constitution, and the reason for the provision. The words of the constitution are: "If vacancies happen (in the Senate) by resignation or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments, until the next meeting of the legislature." "Happen" was held by Mr. Tazewell to be the governing word in this provision, and it always implied a contingency, and an unexpected one. It could not apply to a foreseen event, bound to occur at a fixed period. Here the vacancy was foreseen; there was no contingency in it. It was regular and certain. It was the right of the legislature to fill it, and if they failed, no matter from what cause, there was no right in the governor to supply their omission. The reason of the phraseology was evident. The Assembly was the appointing body. It was the regular authority to elect senators. It was a body of more or less members, but always representing the whole body of the State, and every county in the State, and on that account vested by the constitution with the power of choosing senators. The terms choose and elect are the words applied to the legislative election of senators. The term appoint is the word applied to a gubernatorial appointment. The election was the regular mode of the constitution, and was not to be superseded by an appointment in any case in which the legislature could act, whether they acted or not. Some debate took place, and precedents were called for. On motion of Mr. Eaton, a committee was appointed to search for them, and found several The committee consisted of Mr. Eaton, of Tennessee; Mr. Edwards, of Connecticut; and Mr. Tazewell, of Virginia. They reported the cases of William Cooke, of Tennessee, appointed by the governor of the State, in April, 1797, to fill the vacancy occasioned by the expiration of his own term, the 3d of March preceding; of Uriah Tracy, of Connecticut, appointed by the governor of the State, in February, 1801, to fill the vacancy to occur upon the expiration of his own term, on the 3d of March following; of Joseph Anderson, of Tennessee, appointed by the governor of the State, in February, 1809, to fill the vacancy which the expiration of his own term would make on the 4th of March following; of John Williams, of Tennessee, appointed by the governor of the State, in January, 1817, to fill the vacancy to occur from the expiration of his term, on the ensuing 3d of March; and in all these cases the persons so appointed had been admitted to their seats, and all of them, except in the case of Mr. Tracy, without any question being raised; and in his case by a vote of 13 to 10. These precedents were not satisfactory to the Senate; and after considering Mr. Lanman's case, from the 4th to the 7th of March, the motion to admit him to a seat was rejected by a vote of 23 to 18. The senators voting in favor of the motion were Messrs. Bell, Bouligny, Chase, Clayton, DeWolf, Edwards, Harrison (General), Hendricks, Johnston of Lousiana, Kane, Knight, Lloyd of Massachusetts, McIlvaine, Mills, Noble, Rowan, Seymour, Thomas—10. Those voting against it were Messrs. Barton, Benton, Berrien, Branch, Chandler, Dickerson, Eaton, Findlay, Gaillard, Hayne, Holmes of Maine, Holmes of Mississippi, Jackson (General), King of Alabama, Lloyd of Maryland, Marks, Macon, Ruggles, Smith of Maryland, Tazewell, Van Buren, Vandyke, Williams, of Mississippi—23; and with this decision, the subsequent practice of the Senate has conformed, leaving States in part or in whole unrepresented, when the legislature failed to fill a regular vacancy.

CHAPTER XXIII.

RETIRING OF MR. RUFUS KING.

In the summer of this year, this gentleman terminated a long and high career in the legislative department of the federal government, but not entirely to quit its service. He was appointed by the new President, Mr. John Quincy Adams, to the place of Minister Plenipotentiary and Envoy Extraordinary to the Court of St. James, the same place to which he had been appointed thirty years before, and from the same place (the Senate) by President Washington; and from which he had *not* been removed by President Jefferson, at the revolution of parties, which took place in 1800. He had been connected with the government forty years, having served in the Congress of the Confederation, and in the convention which framed the federal constitution (in both places from his native State of Massachusetts), in the Senate from the State of New-York, being one of the first senators from that State, elected in 1789, with General Philip Schuyler, the father-in-law of General Hamilton. He was afterwards minister to Great Britain, —again senator, and again minister—having, in the mean time, declined the invitation of President Washington to be his Secretary of State. He was a federalist of the old school, and the head of that party after the death of General Hamilton; and when the name discriminated a party, with whose views on government and systems of policy, General Washington greatly coincided. As chief of that party, he was voted for as Vice-President in 1808, and as President in 1816. He was one of the federalists who supported the government in the war of 1812 against Great Britain. Opposed to its declaration, he went into its support as soon as it was declared, and in his place in the Senate voted the measures and supplies required; and (what was most essential) exerted himself in providing for the defence of his adopted State, New-York (on the strength and conduct of which so much then depended); assisting to raise and equip her volunteer regiments and militia quotas, and co-operating with the republican leaders (Gov. Tompkins and Mr. Van Buren), to maintain the great State of New-York in the strong and united position which the war in Canada and repugnance to the war in New England, rendered essential to the welfare of the Union. History should remember this patriotic conduct of Mr. King, and record it for the beautiful and instructive lesson which it teaches.

Like Mr. Macon and John Taylor of Carolina, Mr. King had his individuality of character, manners and dress, but of different type; they, of plain country gentlemen; and he, a high model of courtly refinement. He always appeared in the Senate in full dress; short small-clothes, silk stockings, and shoes, and was habitually observant of all the courtesies of life. His colleague in the Senate, during the chief time that I saw him there, was Mr. Van Buren: and it was singular to see a great State represented in the Senate, at the same time, by the chiefs of opposite political parties; Mr. Van Buren was much the younger, and it was delightful to behold the deferential regard which he paid to his elder colleague, always returned with marked kindness and respect.

I felt it to be a privilege to serve in the Senate with three such senators as Mr. King, Mr. Macon, and John Taylor of Carolina, and was anxious to improve such an opportunity into a means of benefit to myself. With Mr. Macon it came easily, as he was the cotemporary and friend of my father and grandfather; with the venerable John Taylor there was no time for any intimacy to grow up, as we only served together for one session; with Mr. King it required a little system of advances on my part, which I had time to make, and which the urbanity of his manners rendered easy. He became kind to me; readily supplied me with information from his own vast stores, allowed me to consult him, and assisted me in the business of the State (of whose admission he had been the great opponent), whenever I could satisfy him that I was right,—even down to the small bills which were entirely local, or merely individual. More, he gave me proofs of real regard, and in that most difficult of all friendly offices,—admonition, counselling against a fault; one instance of which was so marked and so agreeable to me (reproof as it was), that I immediately wrote down the very words of it in a letter to Mrs. Benton (who was then absent from the city), and now copy it, both to do honor to an aged senator, who could thus act a "*father's*" part towards a young one, and be-

cause I am proud of the words he used to me. The letter says:

"Yesterday (May 20th, 1824), we carried $75,000 for improving the navigation of the Mississippi and the Ohio. I made a good speech, but no part of it will be published. I spoke in *reply*, and with force and animation. When it was over, Mr. King, of N. Y., came and sat down in a chair by me, and took hold of my hand and said he would speak to me as a father—that I had great powers, and that he felt a sincere pleasure in seeing me advance and rise in the world, and that he would take the liberty of warning me against an effect of my temperament when heated by opposition; that under these circumstances I took an authoritative manner, and a look and tone of defiance, which sat ill upon the older members; and advised me to moderate my manner."

This was real friendship, enhanced by the kindness of manner, and had its effect. I suppressed that speech, through compliment to him, and have studied moderation and forbearance ever since. Twenty-five years later I served in Congress with two of Mr. King's sons (Mr. James Gore King, representative from New-York, and Mr. John Alsop King, a representative from New Jersey); and was glad to let them both see the sincere respect which I had for the memory of their father.

In one of our conversations, and upon the formation of the constitution in the federal convention of 1787, he said some things to me which, I think ought to be remembered by future generations, to enable them to appreciate justly those founders of our government who were in favor of a stronger organization than was adopted. He said: "You young men who have been born since the Revolution, look with horror upon the name of a King, and upon all propositions for a strong government. It was not so with us. We were born the subjects of a King, and were accustomed to subscribe ourselves 'His Majesty's most faithful subjects;' and we began the quarrel which ended in the Revolution, not against the King, but against his parliament; and in making the new government many propositions were submitted which would not bear discussion; and ought not to be quoted against their authors, being offered for consideration, and to bring out opinions, and which, though behind the opinions of this day, were in advance of those of that day."—These things were said chiefly in relation to General Hamilton, who had submitted propositions stronger than those adopted, but nothing like those which party spirit attributed to him. I heard these words, I hope, with profit; and commit them, in the same hope, to after generations.

CHAPTER XXIV.

REMOVAL OF THE CREEK INDIANS FROM GEORGIA.

By an agreement with the State of Georgia in the year 1802, the United States became bound, in consideration of the cession of the western territory, now constituting the States of Alabama and Mississippi, to extinguish the remainder of the Indian title within her limits, and to remove the Indians from the State; of which large and valuable portions were then occupied by the Creeks and Cherokees. No time was limited for the fulfilment of this obligation, and near a quarter of a century had passed away without seeing its full execution. At length Georgia, seeing no end to this delay, became impatient, and justly so, the long delay being equivalent to a breach of the agreement; for, although no time was limited for its execution, yet a reasonable time was naturally understood, and that incessant and faithful endeavors should be made by the United States to comply with her undertaking. In the years 1824–'25 this had become a serious question between the United States and Georgia—the compact being but partly complied with—and Mr. Monroe, in the last year of his Administration, and among its last acts, had the satisfaction to conclude a treaty with the Creek Indians for a cession of all their claims in the State, and their removal from it. This was the treaty of the Indian Springs, negotiated the 12th of February, 1825, the famous chief, Gen. Wm. McIntosh, and some fifty other chiefs signing it in the presence of Mr. Crowell, the United States Indian agent. It ceded all the Creek country in Georgia, and also several millions of acres in the State of Alabama. Complaints followed it to Washington as having been concluded by McIntosh without the authority of the nation. The ratification of the treaty was opposed, but finally carried, and by

the strong vote of 34 to 4. Disappointed in their opposition to the treaty at Washington, the discontented party became violent at home, killed McIntosh and another chief, declared forcible resistance to the execution of the treaty, and prepared to resist. Georgia, on her part, determined to execute it by taking possession of the ceded territory. The Government of the United States felt itself bound to interfere. The new President, Mr. Adams, became impressed with the conviction that the treaty had been made without due authority, and that its execution ought not to be enforced; and sent Gen. Gaines with federal troops to the confines of Georgia. All Georgia was in a flame at this view of force, and the neighboring States sympathized with her. In the mean time the President, anxious to avoid violence, and to obtain justice for Georgia, treated further; and assembling the head men and chiefs of the Creeks at Washington City, concluded a new treaty with them (January, 1826); by which the treaty of Indian Springs was annulled, and a substitute for it negotiated, ceding all the Creek lands in Georgia, but none in Alabama. This treaty, with a message detailing all the difficulties of the question, was immediately communicated by the President to the Senate, and by it referred to the Committee on Indian Affairs, of which I was chairman. The committee reported against the ratification of the treaty, earnestly deprecated a collision of arms between the federal government and a State, and recommended further negotiations—a thing the more easy as the Creek chiefs were still at Washington. The objections to the new treaty were:

1. That it annulled the McIntosh treaty; thereby implying its illegality, and apparently justifying the fate of its authors.

2. Because it did not cede the whole of the Creek lands in Georgia.

3. Because it ceded none in Alabama.

Further negotiations according to the recommendation of the Senate, were had by the President; and on the 31st of March of the same year, a supplemental article was concluded, by which all the Creek lands in Georgia were ceded to her; and the Creeks within her borders bound to emigrate to a new home beyond the Mississippi. The vote in the Senate on ratifying this new treaty, and its supplemental article, was full and emphatic—thirty to seven: and the seven negatives all Southern senators favorable to the object, but dissatisfied with the clause which annulled the McIntosh treaty and implied a censure upon its authors. Northern senators voted in a body to do this great act of justice to Georgia, restrained by no unworthy feeling against the growth and prosperity of a slave State. And thus was carried into effect, after a delay of a quarter of a century, and after great and just complaint on the part of Georgia, the compact between that State and the United States of 1802. Georgia was paid at last for her great cession of territory, and obtained the removal of an Indian community out of her limits, and the use and dominion of all her soil for settlement and jurisdiction. It was an incalculable advantage to her, and sought in vain under three successive Southern Presidents—Jefferson, Madison, Monroe—(who could only obtain part concessions from the Indians)—and now accomplished under a Northern President, with the full concurrence and support of the Northern delegations in Congress: for the Northern representatives in the House voted the appropriations to carry the treaty into effect as readily as the senators had voted the ratification of the treaty itself. Candid men, friends to the harmony and stability of this Union, should remember these things when they hear the Northern States, on account of the conduct of some societies and individuals, charged with unjust and criminal designs towards the South.

An incident which attended the negotiation of the supplemental article to the treaty of January deserves to be commemorated, as an instance of the frauds which may attend Indian negotiations, and for which there is so little chance of detection by either of the injured parties,—by the Indians themselves, or by the federal government. When the President sent in the treaty of January, and after its rejection by the Senate became certain, thereby leaving the federal government and Georgia upon the point of collision, I urged upon Mr. James Barbour, the Secretary at War (of whose department the Indian Office was then a branch) the necessity of a supplemental article ceding all the Creek lands in Georgia; and assured him that, with that additional article, the treaty would be ratified, and the question settled. The Secretary was very willing to do all this, but said it was impossible,—that the chiefs would not agree to it. I recommended to him to make them some presents, so as to overcome their opposi-

tion; which he most innocently declined, because it would savor of bribery. In the mean time it had been communicated, to me, that the treaty already made was itself the work of great bribery; the sum of $160,000 out of $247,000, which it stipulated to the Creek nation, as a first payment, being a fund for private distribution among the chiefs who negotiated it. Having received this information, I felt quite sure that the fear of the rejection of the treaty, and the consequent loss of these $160,000, to the negotiating chiefs, would insure their assent to the supplemental article without the inducement of further presents. I had an interview with the leading chiefs, and made known to them the inevitable fact that the Senate would reject the treaty as it stood, but would ratify it with a supplemental article ceding all their lands in Georgia. With this information they agreed to the additional article: and then the whole was ratified, as I have already stated. But a further work remained behind. It was to balk the fraud of the corrupt distribution of $160,000 among a few chiefs; and that was to be done in the appropriation bill, and by a clause directing the whole treaty money to be paid to the nation instead of the chiefs. The case was communicated to the Senate in secret session, and a committee of conference appointed (Messrs. Benton, Van Buren, and Berrien) to agree with the House committee upon the proper clause to be put into the appropriation bill. It was also communicated to the Secretary at War. He sent in a report from Mr. McKinney, the Indian bureau clerk, and actual negotiator of the treaty, admitting the fact of the intended private distribution; which, in fact, could not be denied, as I held an original paper showing the names of all the intended recipients, with the sum allowed to each, beginning at $20,000 and ranging down to $5000: and that it was done with his cognizance.

Some extracts from speeches delivered on that occasion will well finish this view of a transaction which at one time threatened violence between a State and the federal government, and in which a great fraud in an Indian treaty was detected and frustrated.

EXTRACTS FROM THE SPEECHES IN THE SENATE AND IN THE HOUSE OF REPRESENTATIVES.

"Mr. Van Buren said he should state the circumstances of this case, and the views of the committee of conference. A treaty was made in this city, in which it was stipulated on the part of the United States, that $247,000, together with an annuity of $20,000 a year, and other considerations, should be paid to the Creeks, as a consideration for the extinguishment of their title to lands in the State of Georgia, which the United States, under the cession of 1802, were under obligations to extinguish. The bill from the other House to carry this treaty into effect, directed that the money should be paid and distributed among the chiefs and warriors. That bill came to the Senate, and a confidential communication was made to the Senate, from which it appeared that strong suspicions were entertained that a design existed on the part of the chiefs who made the treaty, to practise a fraud on the Creek nation, by dividing the money amongst themselves and associates. An amendment was proposed by the Senate, which provided for the payment of those moneys in the usual way, and the distribution of them in the usual manner, and in the usual proportion to which the Indians were entitled. That amendment was sent to the other House, who, unadvised as to the facts which were known to the Senate, refused to concur in it, and asked a conference. The conferees, on the part of the Senate, communicated their suspicions to the conferees on the part of the House, and asked them to unite in an application to the Department of War, for information on the subject. This was accordingly done, and the documents sent, in answer, were a letter from the Secretary of War, and a report by Mr. McKenney. From that report it appeared clear and satisfactory, that a design thus existed on the part of the Indians, by whom the treaty was negotiated, to distribute of the $247,000 to be paid for the cession by the United States, $159,750 among themselves, and a few favorite chiefs at home, and three Cherokee chiefs who had no interest in the property. Ridge and Vann were to receive by the original treaty $5000 each. By this agreement of the distribution of the money each was to receive $15,000 more, making $20,000 for each. Ridge, the father of Ridge who is here, was to receive $10,000. The other $100,000 was to be distributed, $5000, and, in some instances, $10,000 to the chiefs who negotiated the treaty here, varying from one to ten thousand dollars each.

"Mr. V. B. said, in his judgment, the character of the government was involved in this subject, and it would require, under the circumstances of this case, that they should take every step they could rightfully take to exculpate themselves from having, in any degree or form, concurred in this fraud. The sentiment of the American people where he resided was, and had been, highly excited on this subject; they had applauded, in the most ardent manner, the zeal manifested by the government to preserve themselves pure in their negotiations with the Indians; and though he was satisfied—though he deemed

it impossible to suppose for a moment that government could have countenanced the practice of this fraud, yet there were circumstances in the case which required exculpation. Between the negotiation of the treaty and the negotiation of the supplementary article on which the treaty was finally adopted, all these circumstances were communicated to the Department of War by the two Cherokees. Mr. V. B. said it was not his purpose, because the necessity of the case did not require it, to say what the Secretary of War ought to have done, or to censure what he did do, when the information was given to him. He had known him many years, and there was not an honester man, or a man more devoted to his country, than that gentleman was. Mr. V. B. said it was not for him to have said what should have been the course of the President of the United States, if the information had been given to him on the subject. It could not fail to make a mortifying and most injurious impression on the minds of the people of this country, to find that no means whatever were taken for the suppression of this fraud. There was, and there ought to be, an excitement on the subject in the public mind."

"Mr. Benton said, that after the explanation of the views of the committee of conference which had been given by the senator from New-York (Mr. Van Buren), he would limit himself to a statement of facts on two or three points, on which references had been made to his personal knowledge.

"The Secretary of War had referred to him, in his letter to the committee, as knowing the fact that the Secretary had refused to give private gratuities to the Creek chiefs to promote the success of the negotiation. The reference was correct. Mr. B. had himself recommended the Secretary to do so; it was, however, about forty days after the treaty had been signed. He referred to a paper which fixed the date to the 9th or 10th of March, and the treaty had been signed in the month of January preceding. It was done at the time that Mr. B. had offered his services to procure the supplemental article to be adopted. The Secretary entirely condemned the practice of giving these gratuities. Mr. B. said he had recommended it as the only way of treating with barbarians; that, if not gratified in this way, the chiefs would prolong the negotiation, at a great daily expense to the government, until they got their gratuity in one way or other, or defeated the treaty altogether. He considered the practice to be sanctioned by the usage of the United States: he believed it to be common in all barbarous nations, and in many that were civilized; and referred to the article in the federal constitution against receiving "*presents*" from foreign powers, as a proof that the convention thought such a restriction to be necessary, even among ourselves.

"The *time* at which Mr. B. had offered his services to aid this negotiation, had appeared to him to be eminently critical, and big with consequences which he was anxious to avert. It was after the committee had resolved to report against the new treaty, and before they had made the report to the Senate. The decision, whatsoever it might be, and the consequent discussions, criminations, and recriminations, were calculated to bring on a violent struggle in the Senate itself; between the Senate and the Executive; perhaps between the two Houses (for a reference of the subject to both would have taken place); and between one or more States and the federal government. Mr. B. had concurred in the report against the new treaty, because it divested Georgia of vested rights; and, though objectionable in many other respects, he was willing, for the sake of peace, to ratify it, provided the vested rights of Georgia were not invaded. The supplemental article had relieved him upon this point. He thought that *Georgia* had no further cause of dissatisfaction with the treaty; it was *Alabama* that was injured by the loss of some millions of acres, which she had acquired under the treaty of 1825, and lost under that of 1826. Her case commanded his regrets and sympathy. She had lost the right of jurisdiction over a considerable extent of territory; and the advantages of settling, cultivating, and taxing the same, were postponed; but, he hoped, not indefinitely. But these were *consequential* advantages, resulting from an act which the government was not *bound* to do; and, though the loss of them was an injury, yet this injury could not be considered as a violation of vested rights; but the circumstance certainly increased the strength of her claim to the total extinction of the Indian titles within her limits and, he trusted, would have its due effect upon the Government of the United States.

"The third and last point on which Mr. B. thought references to his name had made it proper for him to give a statement, related to the circumstance which had induced the Senate to make the amendment which had become the subject of the conference between the two Houses. He had himself come to the knowledge of that circumstance in the last days of April, some weeks after the supplemental article had been ratified. He had deemed it to be his duty to communicate it to the Senate, and do it in a way that would avoid a groundless agitation of the public feeling, or unjust reflections upon any individual, white or red, if, peradventure, his information should turn out to have been untrue. He therefore communicated it to the Senate in secret session; and the effect of the information was immediately manifested in the unanimous determination of the Senate to adopt the amendment which was now under consideration. He deemed the amendment, or one that would effect the same object, to be called for by the circumstances of the case, and the relative state of the parties. It was apparent that a few chiefs were to have an undue proportion of the money—they had realized what he had foretold to the Secretary; and it was certain that the knowledge of this, whenever it should be found

out by the nation, would occasion disturbances, and, perhaps, bloodshed. He thought that the United States should prevent these consequences, by preventing the cause of them, and, for this purpose, he would concur in any amendment that would effect a fair distribution of the money, or any distribution that was agreeable to the nation in open counsel."

Mr. Berrien: "You have arrived at the last scene in the present act of the great political drama of the Creek controversy. In its progress, you have seen two of the sovereign States of the American Confederation—especially, you have seen one of those States, which has always been faithful and forward in the discharge of her duties to this Union, driven to the wall, by the combined force of the administration and its allies consisting of a portion of the Creek nation, and certain Cherokee diplomatists. Hitherto, in the discussions before the Senate on this subject, I have imposed a restraint upon my own feelings under the influence of motives which have now ceased to operate. It was my first duty to obtain an acknowledgment, on this floor, of the rights of Georgia, repressing, for that purpose, even the story of her wrongs. It was my first duty, sir, and I have sacrificed to it every other consideration. As a motive to forbearance it no longer exists. The rights of Georgia have been prostrated.

"Sir, in the progress of that controversy, which has grown out of the treaty of the Indian Springs, the people of Georgia have been grossly and wantonly calumniated, and the acts of the administration have assisted to give currency to these calumnies. Her chief magistrate has been traduced. The solemn act of her legislature has been set at naught by a rescript of the federal Executive. A military force has been quartered on her borders to coerce her to submission; and without a trial, without the privilege of being heard, without the semblance of evidence, she has been deprived of rights secured to her by the solemn stipulations of treaty.

"When, in obedience to the will of the legislature of Georgia, her chief magistrate had communicated to the President his determination to survey the ceded territory, his right to do so was admitted. It was declared by the President that the act would be 'wholly' on the responsibility of the government of Georgia, and that 'the Government of the United States would not be in any manner responsible for any consequences which might result from the measure.' When his willingness to encounter this responsibility was announced, it was met by the declaration that the President would 'not permit the survey to be made,' and he was referred to a major-general of the army of the United States, and one thousand regulars.

"The murder of McIntosh—the defamation of the chief magistrate of Georgia—the menace of military force to coerce her to submission—were followed by the traduction of two of her cherished citizens, employed as the agents of the General Government in negotiating the treaty—gentlemen whose integrity will not shrink from a comparison with that of the proudest and loftiest of their accusers. Then the sympathies of the people of the Union were excited in behalf of 'the children of the forest,' who were represented as indignantly spurning the gold, which was offered to entice them from the graves of their fathers, and resolutely determined never to abandon them. The incidents of the plot being thus prepared, the affair hastens to its consummation. A new treaty is negotiated here—*a pure and spotless treaty.* The rights of Georgia and of Alabama are sacrificed; the United States obtain a part of the lands, and pay double the amount stipulated by the old treaty; and those poor and noble, and unsophisticated sons of the forest, having succeeded in imposing on the simplicity of this government, next concert, under its eye, and with its knowledge, the means of defrauding their own constituents, the chiefs and warriors of the Creek nation.

"For their agency in exciting the Creeks to resist the former treaty, and in deluding this government to annul it, *three Cherokees—Ridge, Vann, and the father of the former*—are to receive FORTY THOUSAND DOLLARS of the money stipulated to be paid by the United States to the chiefs of the *Creek* nation; and the government, when informed of the projected fraud, deems itself powerless to avert it. Nay, when apprised by your amendment, that you had also detected it, that government does not hesitate to interpose, by one of its high functionaries, to resist your proceeding, by a singular fatuity, thus giving its countenance and support to the commission of the fraud. Sir, I speak of what has passed before your eyes even in this hall.

"One fifth of the whole purchase money is to be given to *three Cherokees.* TEN THOUSAND DOLLARS reward one of the heroes of Fort Mims—a boon which it so well becomes us to bestow. A few chosen favorites divide among themselves upwards of ONE HUNDRED AND FIFTY THOUSAND DOLLARS, leaving a pittance for distribution among the great body of the chiefs and warriors of the nation.

"But the administration, though it condemns the fraud, thinks that we have no power to prevent its consummation. What, sir, have we no power to see that our own treaty is carried into effect? Have we no interest in doing so? Have we no power? We have stipulated for the payment of two hundred and forty-seven thousand dollars to the chiefs of the Creek nation, *to be distributed among the chiefs and warriors of that nation.* Is not the *distribution* part of the contract as well as the *payment?* We know that a few of those chiefs, in fraudulent violation of the rights secured by that treaty, are about to appropriate this money to themselves. Are we powerless to prevent it? Nay, must we, too, suffer ourselves to be made the conscious instruments of its consummation? We have made a bargain with a savage tribe which you choose to dignify with the name of a treaty

concerning whom we legislate with their consent, or without it, as it seems good in our eyes. We know that some ten or twenty of them are about to cheat the remainder. We have the means in our hands, without which their corrupt purpose cannot be effected. Have we not the right to see that our own bargain is honestly fulfilled? Consistently with common honesty, can we put the consideration money of the contract into the hands of those who we know are about to defraud the people who trusted them? Sir, the proposition is absurd.

"Mr. Forsyth (of the House of Representatives) said: A stupendous fraud, it seems, was intended by the delegation who had formed, with the Secretary of War, the new contract. The chiefs composing the Creek diplomatic train, assisted by their Cherokee secretaries of legation, had combined to put into their own pockets, and those of a few select friends, somewhere about three fourths of the first payment to be made for the second cession of the lands lying in Georgia. The facts connected with this transaction, although concealed from the Senate when the second contract was before them for ratification, and from the House when the appropriation bill to carry it into effect was under consideration, were perfectly understood at the War Department by the Secretary, and by his clerk, who is called the head of the Indian Bureau (Mr. Thomas L. McKinney). The Senate having, by some strange fortune, discovered the intended fraud, after the ratification of the contract, and before they acted on the appropriation bill, wished, by an amendment to the bill, to prevent the success of the profitable scheme of villany. The House, entirely ignorant of the facts, and not suspecting the motive of the amendment, had rejected it, insisted upon their disagreement to it, and a committee of the two Houses, as usual, had conferred on the subject. Now, that the facts are ascertained by the separate reports of the Committees, there can be no difference of opinion on the great point of defeating the intended treachery of the delegation and secretaries to the Creek tribe. The only matter which can bear discussion, is, how shall the treachery be punished? —how shall the Creek tribe be protected from the abominable designs of their worthless and unprincipled agents? Will the amendment proposed by the committee reach their object? The plan is, to pay the money to the chiefs, to be divided among the chiefs and warriors, under the direction of the Secretary of War, in a full council of the nation, convened for the purpose. Suppose the council in solemn session, the money before them, and the division about to be made, under the direction of the Secretary of War—may not the chiefs and their secretaries claim the money, as promised to them under the treaty, and how will the Secretary or his agent resist the claim? They assented—the House will perceive that the only difficulty was the amount of the bribe. The Secretary was willing to go as high as five thousand dollars, but could not stretch to ten thousand dollars. Notwithstanding the assent of the Cherokees, and the declaration of the Secretary, that five thousand dollars each was the extent that they could be allowed, Ridge and Vann, after the treaty was signed, and before it was acted on by the Senate, or submitted to that body, brought a paper, the precious list of the price of each traitor, for the inspection and information of the head of the bureau and the head of the department; and what answer did they receive from both? The head of the bureau said it was their own affair. The Secretary said he presumed it was their own affair. But I ask this House, if the engagement for the five thousand dollars, and the list of the sums to be distributed, may not be claimed as part of this new contract? If these persons have not a right to claim, in the face of the tribe, these sums, as promised to them by their Great Father? Ay, sir; and, if they are powerful enough in the tribe, they will enforce their claim. Under what pretext will your Secretary of War direct a different disposition or division of the money, after his often repeated declaration, 'it is their own affair'—the affair of the delegation? Yes, sir, so happily has this business been managed at the seat of government, under the Executive eye, that this division which the negotiators proposed to make of the spoil, may be termed a part of the consideration of the contract. It must be confessed that these exquisite ambassadors were quite liberal to themselves, their secretaries, and particular friends: one hundred and fifty-nine thousand seven hundred dollars, to be divided among some twenty persons, is pretty well! What name shall we give to this division of money among them? To call it a bribe, would shock the delicacy of the War Department, and possibly offend those gentle spirited politicians, who resemble Cowper's preachers, 'who could not mention hell to ears polite.' The transcendent criminality of this design cannot be well understood, without recalling to recollection the dark and bloody scenes of the year past. The chief McIntosh, distinguished at all times by his courage and devotion to the whites, deriving his name of the White Warrior, from his mixed parentage, had formed, with his party, the treaty of the Indian Springs. He was denounced for it. His midnight sleep was broken by the crackling flames of his dwelling burning over his head. Escaping from the flames, he was shot down by a party acting under the orders of the persons who accused him of betraying, for his own selfish purposes, the interest of the tribe. Those who condemned that chief, the incendiaries and the murderers, are the negotiators of this new contract; the one hundred and fifty-nine thousand dollars, is to be the fruit of their victory over the assassinated chief. What evidence of fraud, and selfishness, and treachery, has red or white malice been able to exhibit against the dead warrior? A reservation of land for him, in the contract of 1821, was sold by him to the United States, for twenty-five thousand dollars; a price he could

have obtained from individuals, if his title had been deemed secure. This sale of property given to him by the tribe, was the foundation of the calumnies that have been heaped upon his memory, and the cause which, in the eyes of our administration newspaper editors, scribblers, and reviewers, justified his execution. Now, sir, the executioners are to be rewarded by pillaging the public Treasury. I look with some curiosity for the indignant denunciations of this accidentally discovered treachery. Perhaps it will be discovered that all this new business of the Creeks is 'their own affair,' with which the white editors and reviewers have nothing to do. Fortunately, Mr. F. said, Congress had something to do with this affair. We owe a justice to the tribe. This amendment, he feared, would not do justice. The power of Congress should be exerted, not only to keep the money out of the hands of these wretches, but to secure a faithful and equal distribution of it among the whole Creek nation. The whole tribe hold the land; their title by occupancy resides in all; all are rightfully claimants to equal portions of the price of their removal from it. The country is not aware how the Indian annuities are distributed, or the moneys paid to the tribes disposed of. They are divided according to the discretion of the Indian government, completely aristocratical—all the powers vested in a few chiefs. Mr. F. had it from authority he could not doubt, that the Creek annuities had, for years past, been divided in very unequal proportions, not among the twenty thousand souls of which the tribe was believed to be composed, but among about one thousand five hundred chiefs and warriors.

"Mr. Forsyth expressed his hope that the House would reject the report of the committee. Before taking his seat, he asked the indulgence of the House, while he made a few comments on this list of worthies, and the prices to be paid to each. At the head of the list stands Mr. Ridge, with the sum of $15,000 opposite to his elevated name. This man is no Creek, but a Cherokee, educated among the whites, allied to them by marriage—has received lessons in Christianity, morality, and sentiment—perfectly civilized, according to the rules and customs of Cornwall. This negotiation, of which he has been, either as actor or instrument, the principal manager, is an admirable proof of the benefits he has derived from his residence among a moral and religious people. Vann, another Cherokee, half savage and half civilized, succeeds him with $15,000 bounty. A few inches below comes another Ridge, the major, father to the secretary—a gallant old fellow, who did some service against the hostile Creeks, during the late war, for which he deserved and received acknowledgments—but what claims he had to this Creek money, Mr. F. could not comprehend. Probably his name was used merely to cover another gratuity for the son, whose modesty would not permit him to take more than $15,000 in his own name. These Cherokees were together to receive $40,000 of Creek money, and the Secretary of War is of opinion it is quite consistent with the contract, which provides for the distribution of it among the chiefs and warriors of the Creeks. Look, sir, at the distinction made for these exquisites. Yopothle Yoholo, whose word General Gaines would take against the congregated world, is set down for but $10,000. The Little Prince but $10,000. Even Menawee, distinguished as he is as the leader of the party who murdered McIntosh and Etome Tustunnuggee—as one of the accursed band who butchered three hundred men, women, and children, at Fort Mims—has but $10,000. A distinguished Red Stick, in these days, when kindness to Indians is shown in proportion to their opposition to the policy of the General Government, might have expected better treatment—only ten thousand dollars to our enemy in war and in peace! But, sir, I will not detain the House longer. I should hold myself criminal if I had exposed these things unnecessarily or uselessly. That patriotism only is lovely which, imitating the filial piety of the sons of the Patriarch, seeks, with averted face, to cover the nakedness of the country from the eye of a vulgar and invidious curiosity. But the commands of public duty must be obeyed; let those who have imposed this duty upon us answer for it to the people."

"Mr. Tatnall, of Geo. (H. R.) He was as confident as his colleagues could be, that the foulest fraud had been projected by some of the individuals calling themselves a part of the Creek delegation, and that it was known to the department of war before the ratification of the treaty, and was not communicated by that department to the Senate, either before or during the pendency of the consideration of the treaty by that body. Mr. T. said he would not, however, for the reasons just mentioned, dwell on this ground, but would proceed to state, that he was in favor of the amendment offered by the committee of conference, (and therein he differed from his colleague), which, whilst it would effectually prevent the commission of the fraud intended, would, also, avoid a violation of the terms of 'the new treaty,' as it was styled. He stated, that the list which he held in his hand was, itself, conclusive evidence of a corrupt intention to divide the greater part of the money among the few persons named in it. In this list, different sums were written opposite the names of different individuals, such, for instance, as the following: 'John Ridge, $15,000—Joseph Vann, 15,000' (both Cherokees, and not Creeks, and, therefore, not entitled to one cent). The next, a long and barbarous Indian name, which I shall not attempt to pronounce, '$10,000'—next, John Stedham, '$10,000,' &c. This list, as it appears in the documents received from the Secretary of War, was presented to the war department by Ridge and Vann."

CHAPTER XXV.

THE PANAMA MISSION.

THE history of this mission, or attempted mission (for it never took effect, though eventually sanctioned by both Houses of Congress), deserves a place in this inside view of the working of our government. Though long since sunk into oblivion, and its name almost forgotten, it was a master subject on the political theatre during its day; and gave rise to questions of national, and of constitutional law, and of national policy, the importance of which survive the occasion from which they sprung; and the solution of which (as then solved), may be some guide to future action, if similar questions again occur. Besides the grave questions to which the subject gave rise, the subject itself became one of unusual and painful excitement. It agitated the people, made a violent debate in the two Houses of Congress, inflamed the passions of parties and individuals, raised a tempest before which Congress bent, made bad feeling between the President and the Senate; and led to the duel between Mr. Randolph and Mr. Clay. It was an administration measure, and pressed by all the means known to an administration. It was evidently relied upon as a means of acting upon the people—as a popular movement, which might have the effect of turning the tide which was then running high against Mr. Adams and Mr. Clay on account of the election in the House of Representatives, and the broad doctrines of the inaugural address, and of the first annual message: and it was doubtless well imagined for that purpose. It was an American movement, and republican. It was the assembly of the American states of Spanish origin, counselling for their mutual safety and independence; and presenting the natural wish for the United States to place herself at their head, as the eldest sister of the new republics, and the one whose example and institutions the others had followed. The monarchies of Europe had formed a "Holy Alliance," to check the progress of liberty: it seemed just that the republics of the New World should confederate against the dangers of despotism. The subject had a charm in it; and the name and place of meeting recalled classic and cherished recollections. It was on an isthmus—the Isthmus of Panama—which connected the two Americas. the Grecian republics had their isthmus—that of Corinth—where their deputies assembled. All the advantages in the presentation of the question were on the side of the administration. It addressed itself to the imagination—to the passions—to the prejudices;—and could only be met by the cold and sober suggestions of reason and judgment. It had the prestige of name and subject, and was half victor before the contest began; and it required bold men to make head against it.

The debate began in the Senate, upon the nomination of ministers; and as the Senate sat with closed doors, their objections were not heard, while numerous presses, and popular speakers, excited the public mind in favor of the measure, and inflamed it against the Senate for delaying its sanction. It was a plan conceived by the new Spanish American republics, and prepared as a sort of amphictyonic council for the settlement of questions among themselves; and, to which, in a manner which had much the appearance of our own procuring, we had received an invitation to send deputies. The invitation was most seductively exhibited in all the administration presses; and captivated all young and ardent imaginations. The people were roused: the majority in both Houses of Congress gave way (many against their convictions, as they frankly told me), while the project itself—our participation in it—was utterly condemned by the principles of our constitution, and by the policy which forbade "entangling alliances," and the proposed congress itself was not even a diplomatic body to which ministers could be sent under the law of nations. To counteract the effect of this outside current, the Senate, on the motion of Mr. Van Buren, adopted a resolve to debate the question with open doors, "unless, in the opinion of the President, the publication of documents necessary to be referred to in debate should be prejudicial to existing negotiations:" and a copy of the resolve was sent to Mr. Adams for his opinion on that point. He declined to give it, and left it to the Senate to decide for itself, "*the question of an unexampled departure from its own usages, and upon the motives of which not being himself informed, he did not feel himself competent to decide.*" This reference to the motives of the

members, and the usages of the Senate, with its clear implication of the badness of one, and the violation of the other, gave great offence in the Senate, and even led to a proposition (made by Mr. Rowan of Kentucky), not to act on the nominations until the information requested should be given. In the end the Senate relinquished the idea of a public debate, and contented itself with its publication after it was over. Mr. John Sergeant of Pennsylvania, and Mr. Richard Clark Anderson of Kentucky, were the ministers nominated; and, the question turning wholly upon the mission itself, and not upon the persons nominated (to whose fitness there was no objection), they were confirmed by a close vote—24 to 20. The negatives were: *Messrs.* Benton, Berrien, Branch, Chandler, Cobb (Thomas W. of Georgia), Dickerson, Eaton, Findlay, Hayne, Holmes of Maine, Kane, King of Alabama, Macon, Randolph, Tazewell, Rowan, Van Buren, White of Tennessee, Williams of Mississippi, Woodbury. The Vice-President, Mr. Calhoun, presiding in the Senate, had no vote, the constitutional contingency to authorize it not having occurred: but he was full and free in the expression of his opinion against the mission.

It was very nearly a party vote, the democracy as a party, being against it: but of those of the party who voted for it, the design of this history (which is to show the working of the government) requires it to be told that there was afterwards, either to themselves or relatives, some large dispensations of executive patronage. Their votes may have been conscientious; but in that case, it would have been better to have vindicated the disinterestedness of the act, by the total refusal of executive favor. Mr. Adams commenced right, by asking the advice of the Senate, before he instituted the mission; but the manner in which the object was pursued, made it a matter of opposition to the administration to refuse it, and greatly impaired the harmony which ought to exist between the President and the Senate. After all, the whole conception of the Panama congress was an abortion. It died out of itself, without ever having been once held—not even by the states which had conceived it. It was incongruous and impracticable, even for them,—more apt to engender disputes among themselves than to harmonize action against Spain,—and utterly foreign to us, and dangerous to our peace and institutions. The basis of the agreement for the congress, was the existing state of war between all the new states and the mother country—Spanish pride and policy being slow to acknowledge the independence of revolted colonies, no matter how independent in fact;—and the wish to establish concert among themselves, in the mode of treating her commerce, and that of such of her American possessions (Cuba, Porto Rico), as had not thrown off their subjection. We were at peace with Spain, and could not go into any such council without compromising our neutrality, and impairing the integrity of our national character. Besides the difficulties it would involve with Spain, there was one subject specified in the treaties for discussion and settlement in that congress, namely, the considerations of future relations with the government of Haïti, which would have been a firebrand in the southern half of our Union,—not to be handled or touched by our goverment any where. The publication of the secret debates in the Senate on the nomination of the ministers, and the public discussion in the House of Representatives on the appropriation clauses, to carry the mission into effect, succeeded, after some time, in dissipating all the illusions which had fascinated the public mind—turned the current against the administration—made the project a new head of objection to its authors; and in a short time it would have been impossible to obtain any consideration for it, either in Congress or before the people. It is now entirely forgotten, but deserves to be remembered in this View of the working of the government, to show the questions of policy, of national and constitutional law which were discussed—the excitement which can be got up without foundation, and against reason—how public men can bend before a storm—how all the departments of the government can go wrong:—and how the true conservative power in our country is in the people, in their judgment and reason, and in steady appeals to their intelligence and patriotism.

Mr. Adams communicated the objects of the proposed congress, so far as the United States could engage in them, in a special message to the Senate; in which, disclaiming all part in any deliberations of a belligerent character, or design to contract alliances, or to engage in any project importing hostility to any other nation, he enumerated, as the measures in which we could well take part, 1. The establishment of liberal prin-

ciples of commercial intercourse, which he supposed could be best done in an assembly of all the American states together. 2. The consentaneous adoption of principles of maritime neutrality. 3. The doctrine that free ships make free goods. 4. An agreement that the "Monroe doctrine," as it is called, should be adopted by the congress, each state to guard, by its own means, its own territory from future European colonization. The enunciation of this doctrine, so different from what it has of late been supposed to be, as binding the United States to guard all the territory of the New World from European colonization, makes it proper to give this passage from Mr. Adams's message in his own words. They are these: "An agreement between all the parties represented at the meeting, that each will guard, by its own means, against the establishment of any future European colony within its borders, may be found advisable. This was, more than two years since, announced by my predecessor to the world, as a principle resulting from the emancipation of both the American continents. It may be so developed to the new southern nations, that they may feel it as an essential appendage to their independence." These were the words of Mr. Adams, who had been a member of Mr. Monroe's cabinet, and filling the department from which the doctrine would emanate; written at a time when the enunciation of it was still fresh, and when he himself, in a communication to the American Senate, was laying it down for the adoption of all the American nations in a general congress of their deputies. The circumstances of the communication render it incredible that Mr. Adams could be deceived in his understanding; and, according to him, this "Monroe doctrine" (according to which it has been of late believed that the United States were to stand guard over the two Americas, and repulse all intrusive colonists from their shores), was entirely confined to our own borders: that it was only proposed to get the other states of the New World to agree that, each for itself, and by its own means, should guard its own territories: and, consequently, that the United States, so far from extending gratuitous protection to the territories of other states, would neither give, nor receive, aid in any such enterprise, but that each should use its own means, within its own borders, for its own exemption from European colonial intrusion. 5. A fifth object proposed by Mr. Adams, in which he supposed our participation in the business of the Panama congress might be rightfully and beneficially admitted, related to the advancement of religious liberty: and as this was a point at which the message encountered much censure, I will give it in its own words. They are these "There is yet another subject upon which, without entering into any treaty, the moral influence of the United States may, perhaps, be exerted with beneficial influence at such meeting—the advancement of religious liberty. Some of the southern nations are, even yet, so far under the dominion of prejudice, that they have incorporated, with their political constitutions, an exclusive Church, without toleration of any other than the dominant sect. The abandonment of this last badge of religious bigotry and oppression, may be pressed more effectually by the united exertions of those who concur in the principles of freedom of conscience, upon those who are yet to be convinced of their justice and wisdom, than by the solitary efforts of a minister to any one of their separate governments.' 6. The sixth and last object named by Mr. Adams was, to give proofs of our good will to all the new southern republics, by accepting their invitation to join them in the congress which they proposed of American nations. The President enumerated no others of the objects to which the discussions of the congress might be directed; but in the papers which he communicated with the invitations he had received, many others were mentioned, one of which was, "the basis on which the relations with Hayti should be placed;" and the other, "to consider and settle the future relations with Cuba and Porto Rico.'

The message was referred to the Senate's Committee on Foreign Affairs, consisting of Mr. Macon, Mr. Tazewell, and Mr Gaillard of South Carolina, Mr. Mills of Massachusetts, and Mr. Hugh L. White of Tennessee. The committee reported adversely to the President's recommendation, and replied to the message, point by point. It is an elaborate document, of great ability and research, and well expressed the democratic doctrines of that day. It was presented by Mr. Macon, the chairman of the committee, and was drawn by Mr. Tazewell, and was the report of which Mr. Macon, when complimented upon it, was accustomed to answer,

"Yes: it is a good report. Tazewell wrote it." But it was his also; for no power could have made him present it, without declaring the fact, if he had not approved it. The general principle of the report was that of good will and friendship to all the young republics, and the cultivation of social, commercial and political relations with each one individually; but no entangling connection, and no internal interference with any one. On the suggestion of advancing religious freedom, the committee remark:

"In the opinion of this committee, there is no proposition, concerning which the people of the United States are now and ever have been more unanimous, than that which denies, not merely the expediency, but the right of intermeddling with the internal affairs of other states; and especially of seeking to alter any provision they may have thought proper to adopt as a fundamental law, or may have incorporated with their political constitutions. And if there be any such subject more sacred and delicate than another, as to which the United States ought never to intermeddle, even by obtrusive advice, it is that which concerns religious liberty. The most cruel and devastating wars have been produced by such interferences; the blood of man has been poured out in torrents; and, from the days of the crusades to the present hour, no benefit has resulted to the human family, from discussions carried on by nations upon such subjects. Among the variety even of Christian nations which now inhabit the earth, rare indeed are the examples to be found of states who have not established an exclusive church; and to far the greater number of these toleration is yet unknown. In none of the communications which have taken place, is the most distant allusion made to this delicate subject, by any of the ministers who have given this invitation; and the committee feel very confident in the opinion, that, if ever an intimation shall be made to the sovereignties they represent, that it was the purpose of the United States to discuss at the proposed congress, their plans of internal civil polity, or any thing touching the supposed interests of their religious establishments, the invitation given would soon be withdrawn."

On the subject of the "Monroe doctrine," the report shows that, one of the new republics (Colombia) proposed that this doctrine should be enforced "by the joint and united efforts of all the states to be represented in the congress, who should be bound by a solemn convention to secure this end. It was in answer to this proposition that the President in his message showed the extent of that doctrine to be limited to our own territories, and that all that we could do, would be to enter into agreement that each should guard, by its own means, against the establishment of any foreign colony within its borders. Even such an agreement the committee deemed unadvisable, and that there was no more reason for making it a treaty stipulation than there was for reducing to such stipulations any other of the "high, just, and universally admitted rights of all nations." The favorable commercial treaties which the President expected to obtain, the committee believed would be more readily obtained from each nation separately (in which opinion their foresight has been justified by the event); and that each treaty would be the more easily kept in proportion to the smaller number of parties to it. The ameliorations of the laws of nations which the President proposed, in the adoption of principles of maritime neutrality, and that free ships should make free goods, and the restriction of paper blockades, were deemed by the committee objects beyond the enforcement of the American states alone; and the enforcement of which, if agreed to, might bring the chief burthen of enforcement upon the United States; and the committee doubted the policy of undertaking, by negotiation with these nations, to settle abstract propositions, as parts of public law. On the subject of Cuba and Porto Rico, the report declared that the United States could never regard with indifference their actual condition, or future destiny;—but deprecated any joint action in relation to them, or any action to which they themselves were not parties; and it totally discountenanced any joint discussion or action in relation to the future of Haïti. To the whole of the new republics, the report expressed the belief that, the retention of our present unconnected and friendly position towards them, would be most for their own benefit, and enable the United States to act most effectually for them in the case of needing our good offices. It said:

"While the United States retain the position which they have hitherto occupied, and manifest a constant determination not to mingle their interests with those of the other states of America, they may continue to employ the influence which they possess, and have already happily exerted, with the nations of Europe, in favor of these new republics. But, if ever the United States permit themselves to be associated with these nations in any general congress, assembled for the discussion of common plans, in the way affecting European interests, they will, by such an act, not

only deprive themselves of the ability they now possess, of rendering useful assistance to the other American states, but also produce other effects, prejudicial to their own interests. Then, the powers of Europe, who have hitherto confided in the sagacity, vigilance, and impartiality of the United States, to watch, detect, announce, and restrain any disposition that the heat of the existing contest might excite in the new states of America, to extend their empires beyond their own limits, and who have, therefore, considered their possessions and commerce in America safe, while so guarded, would no longer feel this confidence."

The advantage of pursuing our old policy, and maintaining friendly relations with all powers, "entangling alliances with none," was forcibly presented in a brief and striking paragraph:

"And the United States, who have grown up in happiness, to their present prosperity, by a strict observance of their old well-known course of policy, and by manifesting entire good will and most profound respect for all other nations, must prepare to embark their future destinies upon an unknown and turbulent ocean, directed by little experience, and destined for no certain haven. In such a voyage the dissimilitude existing between themselves and their associates, in interest, character, language, religion, manners, customs, habits, laws, and almost every other particular: and the rivalship these discrepancies must surely produce amongst them, would generate discords, which, if they did not destroy all hope of its successful termination, would make even success itself the ultimate cause of new and direful conflicts between themselves. Such has been the issue of all such enterprises in past time; and we have therefore strong reasons to expect in the future, similar results from similar causes.

The committee dissented from the President on the point of his right to institute the mission without the previous advice and consent of the Senate. The President averred his right to do so: but deemed it advisable, under all the circumstances, to waive the right, and ask the advice. The committee averred the right of the Senate to decide directly upon the expedience of this *new mission;* grounding the right upon its originality, and holding that when a *new mission* is to be instituted it is the creation of an office, not the filling of a vacancy; and that the Senate have a right to decide upon the expediency of the office itself.

I spoke myself on this question, and to all the points which it presented, and on the subject of relations with Haïti (on which a uniform rule was to be determined on. or a rule with modifications, according to the proposition of Colombia) I held that our policy was fixed, and could be neither altered, nor discussed in any foreign assembly; and especially in the one proposed; all the other parties to which had already placed the two races (black and white) on the basis of political equality. I said:

"Our policy towards Haïti, the old San Domingo, has been fixed for three and thirty years. We trade with her, but no diplomatic relations have been established between us. We purchase coffee from her, and pay her for it; but we interchange no consuls or ministers. We receive no mulatto consuls, or black ambassadors from her. And why? Because the peace of eleven States in this Union will not permit the fruits of a successful negro insurrection to be exhibited among them. It will not permit black consuls and ambassadors to establish themselves in our cities, and to parade through our country, and give to their fellow blacks in the United States, proof in hand of the honors which await them, for a like successful effort on their part. It will not permit the fact to be seen, and told, that for the murder of their masters and mistresses, they are to find *friends* among the white people of these United States. No, this is a question which has been *determined* HERE for three and thirty years; one which has never been open for discussion, at home or abroad, neither under the Presidency of Gen. Washington, of the first Mr. Adams, of Mr. Jefferson, Mr. Madison, or Mr. Monroe. It is one which cannot be discussed in *this* chamber on *this* day; and shall we go to Panama to discuss it? I take it in the mildest supposed character of this Congress—shall we go there to *advise* and *consult* in council about it? Who are to advise and sit in judgment upon it? Five nations who have already put the black man upon an equality with the white, not only in their constitutions but in real life: five nations who have at this moment (at least some of them) black generals in their armies and mulatto senators in their congresses!

No question, in its day, excited more heat and intemperate discussion, or more feeling between a President and Senate, than this proposed mission to the congress of American nations at Panama; and no heated question ever cooled off, and died out so suddenly and completely. And now the chief benefit to be derived from its retrospect—and that indeed is a real one—is a view of the firmness with which was then maintained by a minority, the old policy of the United States, to avoid entangling alliances and interference with the affairs of other nations;—and the exposition of the Monroe doctrine. from one so competent to give it as Mr. Adams.

CHAPTER XXVI.

DUEL BETWEEN MR. CLAY AND MR. RANDOLPH.

It was Saturday, the first day of April, towards noon, the Senate not being that day in session, that Mr. Randolph came to my room at Brown's Hotel, and (without explaining the reason of the question) asked me if I was a blood-relation of Mrs. Clay? I answered that I was, and he immediately replied that that put an end to a request which he had wished to make of me; and then went on to tell me that he had just received a challenge from Mr. Clay, had accepted it, was ready to go out, and would apply to Col. Tatnall to be his second. Before leaving, he told me he would make my bosom the depository of a secret which he should commit to no other person: it was, that he did not intend to fire at Mr. Clay. He told it to me because he wanted a witness of his intention, and did not mean to tell it to his second or any body else; and enjoined inviolable secrecy until the duel was over. This was the first notice I had of the affair. The circumstances of the delivery of the challenge I had from Gen. Jesup, Mr. Clay's second, and they were so perfectly characteristic of Mr. Randolph that I give them in detail, and in the General's own words:

"I was unable to see Mr. Randolph until the morning of the 1st of April, when I called on him for the purpose of delivering the note. Previous to presenting it, however, I thought it proper to ascertain from Mr. Randolph himself whether the information which Mr. Clay had received—that he considered himself personally accountable for the attack on him—was correct. I accordingly informed Mr. Randolph that I was the bearer of a message from Mr. Clay, in consequence of an attack which he had made upon his private as well as public character in the Senate; that I was aware no one had the right to question him out of the Senate for any thing said in debate, unless he chose voluntarily to waive his privileges as a member of that body. Mr. Randolph replied, that the constitution did protect him, but he would never shield himself under such a subterfuge as the pleading of his privilege as a senator from Virginia; that he did hold himself accountable to Mr. Clay; but he said that gentleman had first two pledges to redeem: one that he had bound himself to fight any member of the House of Representatives, who should acknowledge himself the author of a certain publication in a Philadelphia paper; and the other that he stood pledged to establish certain facts in regard to a great man, whom he would not name; but, he added he could receive no verbal message from Mr. Clay—that any message from him must be in writing. I replied that I was not authorized by Mr. Clay to enter into or receive any verbal explanations—that the inquiries I had made were for my own satisfaction and upon my own responsibility—that the only message of which I was the bearer was in writing. I then presented the note, and remarked that I knew nothing of Mr. Clay's pledges; but that if they existed as he (Mr. Randolph) understood them, and he was aware of them when he made the attack complained of, he could not avail himself of them—that by making the attack I thought he had waived them himself. He said he had not the remotest intention of taking advantage of the pledges referred to; that he had mentioned them merely to remind me that he was waiving his privilege, not only as a senator from Virginia, but as a private gentleman; that he was ready to respond to Mr. Clay, and would be obliged to me if I would bear his note in reply; and that he would in the course of the day look out for a friend. I declined being the bearer of his note, but informed him my only reason for declining was, that I thought he owed it to himself to consult his friends before taking so important a step. He seized my hand, saying, 'You are right, sir. I thank you for the suggestion: but as you do not take my note, you must not be impatient if you should not hear from me to-day. I now think of only two friends, and there are circumstances connected with one of them which may deprive me of his services, and the other is in bad health—he was sick yesterday, and may not be out to-day.' I assured him that any reasonable time which he might find necessary to take would be satisfactory. I took leave of him; and it is due to his memory to say that his bearing was, throughout the interview, that of a high-toned, chivalrous gentleman of the old school."

These were the circumstances of the delivery of the challenge, and the only thing necessary to give them their character is to recollect that, with this prompt acceptance and positive refusal to explain, and this extra cut about the two pledges, there was a perfect determination not to fire at Mr. Clay. That determination rested on two grounds; first, an entire unwillingness to hurt Mr. Clay; and, next, a conviction that to return the fire would be to answer, and would be an implied acknowledgment of Mr. Clay's right to make him answer. This he would not do, neither by implication nor in words. He denied the right of any person to question him out of the Senate for words spoken within it. He took a distinction

between man and senator. As senator he had a constitutional immunity, given for a wise purpose, and which he would neither surrender nor compromise; as individual he was ready to give satisfaction for what was deemed an injury. He would receive, but not return a fire. It was as much as to say: Mr. Clay may fire at me for what has offended him; I will not, by returning the fire, admit his right to do so. This was a subtle distinction, and that in case of life and death, and not very clear to the common intellect; but to Mr. Randolph both clear and convincing. His allusion to the "two pledges unredeemed," which he might have plead in bar to Mr. Clay's challenge, and would not, was another sarcastic cut at Mr. Adams and Mr. Clay, while rendering satisfaction for cuts already given. The "member of the House" was Mr. George Kremer, of Pennsylvania, who, at the time of the presidential election in the House of Representatives, had avowed himself to be the author of an anonymous publication, the writer of which Mr. Clay had threatened to call to account if he would avow himself—and did not. The "great man" was President Adams, with whom Mr. Clay had had a newspaper controversy, involving a question of fact,—which had been postponed. The cause of this sarcastic cut, and of all the keen personality in the Panama speech, was the belief that the President and Secretary, the latter especially, encouraged the newspapers in their interest to attack him, which they did incessantly; and he chose to overlook the editors and retaliate upon the instigators, as he believed them to be. This he did to his heart's content in that speech—and to their great annoyance, as the coming of the challenge proved. The "two friends" alluded to were Col. Tatnall and myself, and the circumstances which might disqualify one of the two were those of my relationship to Mrs. Clay, of which he did not know the degree, and whether of affinity or consanguinity—considering the first no obstacle, the other a complete bar to my appearing as his second—holding, as he did, with the tenacity of an Indian, to the obligations of blood, and laying but little stress on marriage connections. His affable reception and courteous demeanor to Gen. Jesup were according to his own high breeding, and the decorum which belonged to such occasions. A duel in the circle to which he belonged was "an affair of honor;" and high honor, according to its code, must pervade every part of it. General Jesup had come upon an unpleasant business. Mr. Randolph determined to put him at his ease; and did it so effectually as to charm him into admiration. The whole plan of his conduct, down to contingent details, was cast in his mind instantly, as if by intuition, and never departed from. The acceptance, the refusal to explain, the determination not to fire, the first and second choice of a friend, and the circumstances which might disqualify one and delay the other, the additional cut, and the resolve to fall, if he fell, on the soil of Virginia—was all, to his mind, a single emanation, the flash of an instant. He needed no consultations, no deliberations to arrive at all these important conclusions. I dwell upon these small circumstances because they are characteristic, and show the man—a man who belongs to history, and had his own history, and should be known as he was. That character can only be shown in his own conduct, his own words and acts: and this duel with Mr. Clay illustrates it at many points. It is in that point of view that I dwell upon circumstances which might seem trivial, but which are not so, being illustrative of character and significant to their smallest particulars.

The acceptance of the challenge was in keeping with the whole proceeding—prompt in the agreement to meet, exact in protesting against the *right* to call him out, clear in the waiver of his constitutional privilege, brief and cogent in presenting the case as one of some reprehension —the case of a member of an administration challenging a senator for words spoken in debate of that administration; and all in brief, terse, and superlatively decorous language. It ran thus:

"Mr. Randolph accepts the challenge of Mr. Clay. At the same time he protests against the *right* of any minister of the Executive Government of the United States to hold him responsible for words spoken in debate, as a senator from Virginia, in crimination of such minister, or the administration under which he shall have taken office. Colonel Tatnall, of Georgia, the bearer of this letter, is authorized to arrange with General Jesup (the bearer of Mr. Clay's challenge) the terms of the meeting to which Mr. Randolph is invited by that note."

This *protest* which Mr. Randolph entered against the right of Mr. Clay to challenge him, led to an explanation between their mutual friends on that delicate point—a point which concerned the independence of debate, the pri-

vileges of the Senate, the immunity of a member, and the sanctity of the constitution. It was a point which Mr. Clay felt; and the explanation which was had between the mutual friends presented an excuse, if not a justification, for his proceeding. He had been informed that Mr. Randolph, in his speech, had avowed his responsibility to Mr. Clay, and waived his privilege—a thing which, if it had been done, would have been a defiance, and stood for an invitation to Mr. Clay to send a challenge. Mr. Randolph, through Col. Tatnall, disavowed that imputed avowal, and confined his waiver of privilege to the time of the delivery of the challenge, and in answer to an inquiry before it was delivered.

The following are the communications between the respective seconds on this point:

"In regard to the *protest* with which Mr. Randolph's note concludes, it is due to Mr. Clay to say that he had been informed Mr. Randolph did, and would, hold himself responsible to him for any observations he might make in relation to him; and that I (Gen. Jesup) distinctly understood from Mr. Randolph, before I delivered the note of Mr. Clay, that he waived his privilege as a senator."

To this Col. Tatnall replied:

"As this expression (did and would hold himself responsible, &c.) may be construed to mean that Mr. Randolph had given this intimation not only before called upon, but in such a manner as to throw out to Mr. Clay something like an invitation to make such a call, I have, on the part of Mr. Randolph, to disavow any disposition, when expressing his readiness to waive his privilege as a senator from Virginia, to invite, in any case, a call upon him for personal satisfaction. The concluding paragraph of your note, I presume, is intended to show merely that you did not present a note, such as that of Mr. Clay to Mr. Randolph, until you had ascertained his willingness to waive his privilege as a senator. This I infer, as it was in your recollection that the expression of such a readiness on the part of Mr. Randolph was in reply to an inquiry on that point made by yourself."

Thus an irritating circumstance in the affair was virtually negatived, and its offensive import wholly disavowed. For my part, I do not believe that Mr. Randolph used such language in his speech. I have no recollection of having heard it. The published report of the speech, as taken down by the reporters and not revised by the speaker, contains nothing of it. Such gasconade was foreign to Mr. Randolph's character. The occasion was not one in which these sort of defiances are thrown out, which are either to purchase a cheap reputation when it is known they will be despised, or to get an advantage in extracting a challenge when there is a design to kill. Mr. Randolph had none of these views with respect to Mr. Clay. He had no desire to fight him, or to hurt him, or gain cheap character by appearing to bully him. He was above all that, and had settled accounts with him in his speech, and wanted no more. I do not believe it was said; but there was a part of the speech which might have received a wrong application, and led to the erroneous report: a part which applied to a quoted passage in Mr. Adams's Panama message, which he condemned and denounced, and dared the President and his friends to defend. His words were, as reported unrevised: "Here I plant my foot; here I fling defiance right into his (the President's) teeth; here I throw the gauntlet to him and the bravest of his compeers to come forward and defend these lines," &c. A very palpable defiance this, but very different from a summons to personal combat, and from what was related to Mr. Clay. It was an unfortunate report, doubtless the effect of indistinct apprehension, and the more to be regretted as, after having been a main cause inducing the challenge, the disavowal could not stop it.

Thus the agreement for the meeting was absolute; and, according to the expectation of the principals, the meeting itself would be immediately; but their seconds, from the most laudable feelings, determined to delay it, with the hope to prevent it, and did keep it off a week, admitting me to a participation in the good work, as being already privy to the affair and friendly to both parties. The challenge stated no specific ground of offence, specified no exceptionable words. It was peremptory and general, for an "unprovoked attack on his (Mr. Clay's) character," and it dispensed with explanations by alleging that the notoriety and indisputable existence of the injury superseded the necessity for them. Of course this demand was bottomed on a report of the words spoken—a verbal report, the full daily publication of the debates having not then begun—and that verbal report was of a character greatly to exasperate Mr. Clay. It stated that in the course of the debate Mr. Randolph said:

"That a letter from General Salazar, the Mexican Minister at Washington, submitted by the Executive to the Senate, bore the ear-mark of having been manufactured or forged by the Secretary of State, and denounced the administration as a corrupt coalition between the puritan and blackleg; and added, at the same time, that he (Mr. Randolph) held himself personally responsible for all that he had said."

This was the report to Mr. Clay, and upon which he gave the absolute challenge, and received the absolute acceptance, which shut out all inquiry between the principals into the causes of the quarrel. The seconds determined to open it, and to attempt an accommodation, or a peaceable determination of the difficulty. In consequence, General Jesup stated the complaint in a note to Col. Tatnall, thus:

"The injury of which Mr. Clay complains consists in this, that Mr. Randolph has charged him with having forged or manufactured a paper connected with the Panama mission; also, that he has applied to him in debate the epithet of blackleg. The explanation which I consider necessary is, that Mr. Randolph declare that he had no intention of charging Mr. Clay, either in his public or private capacity, with forging or falsifying any paper, or misrepresenting any fact; and also that the term blackleg was not intended to apply to him."

To this exposition of the grounds of the complaint, Col. Tatnall answered:

"Mr. Randolph informs me that the words used by him in debate were as follows: 'That I thought it would be in my power to show evidence sufficiently presumptive to satisfy a Charlotte (county) jury that this invitation was manufactured here—that Salazar's letter struck me as bearing a strong likeness in point of style to the other papers. I did not undertake to prove this, but expressed my suspicion that the fact was so. I applied to the administration the epithet, puritanic-diplomatic-black-legged administration.' Mr. Randolph, in giving these words as those uttered by him in debate, is unwilling to afford any explanation as to their meaning and application."

In this answer Mr. Randolph remained upon his original ground of refusing to answer out of the Senate for words spoken within it. In other respects the statement of the words actually spoken greatly ameliorated the offensive report, the coarse and insulting words, "*forging and falsifying*," being disavowed, as in fact they were not used, and are not to be found in the published report. The speech was a bitter philippic, and intended to be so, taking for its point the alleged coalition between Mr. Clay and Mr Adams with respect to the election, and their efforts to get up a popular question contrary to our policy of non-entanglement with foreign nations, in sending ministers to the congress of the American states of Spanish origin at the Isthmus of Panama. I heard it all, and, though sharp and cutting, I think it might have been heard, had he been present, without any manifestation of resentment by Mr. Clay. The part which he took so seriously to heart, that of having the Panama invitations manufactured in his office, was to my mind nothing more than attributing to him a diplomatic superiority which enabled him to obtain from the South American ministers the invitations that he wanted; and not at all that they were spurious fabrications. As to the expression, "*blackleg and puritan*," it was merely a sarcasm to strike by antithesis, and which, being without foundation, might have been disregarded. I presented these views to the parties, and if they had come from Mr. Randolph they might have been sufficient; but he was inexorable, and would not authorize a word to be said beyond what he had written.

All hope of accommodation having vanished, the seconds proceeded to arrange for the duel. The afternoon of Saturday, the 8th of April, was fixed upon for the time; the right bank of the Potomac, within the State of Virginia, above the Little Falls bridge, was the place,—pistols the weapons,—distance ten paces; each party to be attended by two seconds and a surgeon, and myself at liberty to attend as a mutual friend. There was to be no practising with pistols, and there was none; and the words "one," "two," "three," "stop," after the word "fire," were, by agreement between the seconds, and for the humane purpose of reducing the result as near as possible to chance, to be given out in quick succession. The Virginia side of the Potomac was taken at the instance of Mr. Randolph. He went out as a Virginia senator, refusing to compromise that character, and, if he fell in defence of its rights, Virginia soil was to him the chosen ground to receive his blood. There was a statute of the State against duelling within her limits; but, as he merely went out to receive a fire without returning it, he deemed that no fighting, and consequently no breach of her statute. This reason for choosing Virginia could only be ex

plained to me, as I alone was the depository of his secret.

The week's delay which the seconds had contrived was about expiring. It was Friday evening, or rather night, when I went to see Mr. Clay for the last time before the duel. There had been some alienation between us since the time of the presidential election in the House of Representatives, and I wished to give evidence that there was nothing personal in it. The family were in the parlor—company present—and some of it staid late. The youngest child, I believe James, went to sleep on the sofa—a circumstance which availed me for a purpose the next day. Mrs. Clay was, as always since the death of her daughters, the picture of desolation, but calm, conversable, and without the slightest apparent consciousness of the impending event. When all were gone, and she also had left the parlor, I did what I came for, and said to Mr. Clay, that, notwithstanding our late political differences, my personal feelings towards him were the same as fomerly, and that, in whatever concerned his life or honor my best wishes were with him. He expressed his gratification at the visit and the declaration, and said it was what he would have expected of me. We parted at midnight.

Saturday, the 8th of April—the day for the duel—had come, and almost the hour. It was noon, and the meeting was to take place at 4½ o'clock. I had gone to see Mr. Randolph before the hour, and for a purpose; and, besides, it was so far on the way, as he lived half way to Georgetown, and we had to pass through that place to cross the Potomac into Virginia at the Little Falls bridge. I had heard nothing from him on the point of not returning the fire since the first communication to that effect, eight days before. I had no reason to doubt the steadiness of his determination, but felt a desire to have fresh assurance of it after so many days' delay, and so near approach of the trying moment. I knew it would not do to ask him the question—any question which would imply a doubt of his word. His sensitive feelings would be hurt and annoyed at it. So I fell upon a scheme to get at the inquiry without seeming to make it. I told him of my visit to Mr. Clay the night before—of the late sitting—the child asleep—the unconscious tranquillity of Mrs. Clay; and added, I could not help reflecting how different all that might be the next night. He understood me perfectly, and immediately said, with a quietude of look and expression which seemed to rebuke an unworthy doubt, "*I shall do nothing to disturb the sleep of the child or the repose of the mother*," and went on with his employment—(his seconds being engaged in their preparations in a different room)—which was, making codicils to his will, all in the way of remembrance to friends; the bequests slight in value, but invaluable in tenderness of feeling and beauty of expression, and always appropriate to the receiver. To Mr. Macon he gave some English shillings, to keep the game when he played whist. His namesake, John Randolph Bryan, then at school in Baltimore, and since married to his niece, had been sent for to see him, but sent off before the hour for going out, to save the boy from a possible shock at seeing him brought back. He wanted some gold—that coin not being then in circulation, and only to be obtained by favor or purchase—and sent his faithful man, Johnny, to the United States Branch Bank to get a few pieces, American being the kind asked for. Johnny returned without the gold, and delivered the excuse that the bank had none. Instantly Mr. Randolph's clear silver-toned voice was heard above its natural pitch, exclaiming, "Their name is legion! and they are liars from the beginning. Johnny, bring me my horse." His own saddle-horse was brought him—for he never rode Johnny's, nor Johnny his, though both, and all his hundred horses, were of the finest English blood—and rode off to the bank down Pennsylvania avenue, now Corcoran & Riggs's—Johnny following, as always, forty paces behind. Arrived at the bank, this scene, according to my informant, took place:

"Mr. Randolph asked for the state of his account, was shown it, and found to be some four thousand dollars in his favor. He asked for it. The teller took up packages of bills, and civilly asked in what sized notes he would have it. 'I want money,' said Mr. Randolph, putting emphasis on the word; and at that time it required a bold man to intimate that United States Bank notes were not money. The teller, beginning to understand him, and willing to make sure, said, inquiringly, 'You want silver?' 'I want my money!' was the reply. Then the teller, lifting boxes to the counter, said politely: 'Have you a cart, Mr. Randolph, to put it in?' 'That is my business, sir,' said he. By that time the attention of the cashier (Mr. Richard Smith) was attracted to what was going on, who came up, and understanding the question, and its cause, told

Mr. Randolph there was a mistake in the answer given to his servant; that they had gold, and he should have what he wanted."

In fact, he had only applied for a few pieces, which he wanted for a special purpose. This brought about a compromise. The pieces of gold were received, the cart and the silver dispensed with; but the account in bank was closed, and a check taken for the amount on New-York. He returned and delivered me a sealed paper, which I was to open if he was killed—give back to him if he was not; also an open slip, which I was to read before I got to the ground. This slip was a request to feel in his left breeches pocket, if he was killed, and find so many pieces of gold—I believe nine—take three for myself, and give the same number to Tatnall and Hamilton each, to make seals to wear in remembrance of him. We were all three at Mr. Randolph's lodgings then, and soon sat out, Mr. Randolph and his seconds in a carriage, I following him on horseback.

I have already said that the count was to be quick after giving the word "fire," and for a reason which could not be told to the principals. To Mr. Randolph, who did not mean to fire, and who, though agreeing to be shot at, had no desire to be hit, this rapidity of counting out the time and quick arrival at the command "stop" presented no objection. With Mr. Clay it was different. With him it was all a real transaction, and gave rise to some proposal for more deliberateness in counting off the time; which being communicated to Col. Tatnall, and by him to Mr. Randolph, had an ill effect upon his feelings, and, aided by an untoward accident on the ground, unsettled for a moment the noble determination which he had formed not to fire at Mr. Clay. I now give the words of Gen. Jesup:

"When I repeated to Mr. Clay the 'word' in the manner in which it would be given, he expressed some apprehension that, as he was not accustomed to the use of the pistol, he might not be able to fire within the time, and for that reason alone desired that it might be prolonged. I mentioned to Col. Tatnall the desire of Mr. Clay. He replied, 'If you insist upon it, the time must be prolonged, but I should very much regret it.' I informed him I did not insist upon prolonging the time, and I was sure Mr. Clay would acquiesce. The original agreement was carried out."

I knew nothing of this until it was too late to speak with the seconds or principals. I had crossed the Little Falls bridge just after them, and come to the place where the servants and carriages had stopped. I saw none of the gentlemen, and supposed they had all gone to the spot where the ground was being marked off; but on speaking to Johnny, Mr. Randolph, who was still in his carriage and heard my voice, looked out from the window, and said to me: "Colonel, since I saw you, and since I have been in this carriage, I have heard something which *may* make me change my determination. Col. Hamilton will give you a note which will explain it." Col. Hamilton was then in the carriage, and gave me the note, in the course of the evening, of which Mr. Randolph spoke. I readily comprehended that this possible change of determination related to his firing; but the emphasis with which he pronounced the word "*may*" clearly showed that his mind was undecided, and left it doubtful whether he would fire or not. No further conversation took place between us; the preparations for the duel were finished; the parties went to their places; and I went forward to a piece of rising ground, from which I could see what passed and hear what was said. The faithful Johnny followed me close, speaking not a word, but evincing the deepest anxiety for his beloved master. The place was a thick forest, and the immediate spot a little depression, or basin, in which the parties stood. The principals saluted each other courteously as they took their stands. Col. Tatnall had won the choice of position, which gave to Gen. Jesup the delivery of the word. They stood on a line east and west—a small stump just behind Mr. Clay; a low gravelly bank rose just behind Mr. Randolph. This latter asked Gen. Jesup to repeat the word as he would give it; and while in the act of doing so, and Mr. Randolph adjusting the butt of his pistol to his hand, the muzzle pointing downwards, and almost to the ground, it fired. Instantly Mr. Randolph turned to Col. Tatnall and said: "I protested against that hair trigger." Col. Tatnall took blame to himself for having sprung the hair. Mr. Clay had not then received his pistol. Senator Johnson, of Louisiana (Josiah), one of his seconds, was carrying it to him, and still several steps from him. This untimely fire, though clearly an accident, necessarily gave rise to some remarks, and a species of inquiry, which was conducted with the utmost delicacy, but which, in itself, was of a nature to be inexpres-

sibly painful to a gentleman's feelings. Mr. Clay stopped it with the generous remark that the fire was clearly an accident: and it was so unanimously declared. Another pistol was immediately furnished; and exchange of shots took place, and, happily, without effect upon the persons. Mr. Randolph's bullet struck the stump behind Mr. Clay, and Mr. Clay's knocked up the earth and gravel behind Mr. Randolph, and in a line with the level of his hips, both bullets having gone so true and close that it was a marvel how they missed. The moment had come for me to interpose. I went in among the parties and offered my mediation; but nothing could be done. Mr. Clay said, with that wave of the hand with which he was accustomed to put away a trifle, "*This is child's play!*" and required another fire. Mr. Randolph also demanded another fire. The seconds were directed to reload. While this was doing I prevailed on Mr. Randolph to walk away from his post, and renewed to him, more pressingly than ever, my importunities to yield to some accommodation; but I found him more determined than I had ever seen him, and for the first time impatient, and seemingly annoyed and dissatisfied at what I was doing. He was indeed annoyed and dissatisfied. The accidental fire of his pistol preyed upon his feelings. He was doubly chagrined at it, both as a circumstance susceptible in itself of an unfair interpretation, and as having been the immediate and controlling cause of his firing at Mr. Clay. He regretted this fire the instant it was over. He felt that it had subjected him to imputations from which he knew himself to be free—a desire to kill Mr. Clay, and a contempt for the laws of his beloved State; and the annoyances which he felt at these vexatious circumstances revived his original determination, and decided him irrevocably to carry it out.

It was in this interval that he told me what he had heard since we parted, and to which he alluded when he spoke to me from the window of the carriage. It was to this effect: That he had been informed by Col. Tatnall that it was proposed to give out the words with more deliberateness, so as to prolong the time for taking aim. This information grated harshly upon his feelings. It unsettled his purpose, and brought his mind to the inquiry (as he now told me, and as I found it expressed in the note which he had immediately written in pencil to apprise me of his possible change), whether, under these circumstances, he might not "*disable*" his adversary? This note is so characteristic, and such an essential part of this affair, that I here give its very words, so far as relates to this point. It ran thus:

"Information received from Col. Tatnall since I got into the carriage *may* induce me to change my mind, of not returning Mr. Clay's fire. I seek not his death. I would not have his blood upon my hands—it will not be upon my soul if shed in self-defence—for the world. He has determined, by the use of a long, preparatory caution by words, to get time to kill me. May I not, then, disable him? Yes, if I please."

It has been seen, by the statement of Gen. Jesup, already given, that this "*information*" was a misapprehension; that Mr. Clay had not applied for a prolongation of time for the purpose of getting sure aim, but only to enable his unused hand, long unfamiliar with the pistol, to fire within the limited time; that there was no prolongation, in fact, either granted or insisted upon; but he was in doubt, and General Jesup having won the word, he was having him repeat it in the way he was to give it out, when his finger touched the hair-trigger. How unfortunate that I did not know of this in time to speak to General Jesup, when one word from him would have set all right, and saved the imminent risks incurred! This inquiry, "May I not disable him?" was still on Mr. Randolph's mind, and dependent for its solution on the rising incidents of the moment, when the accidental fire of his pistol gave the turn to his feelings which solved the doubt. But he declared to me that he had not aimed at the life of Mr. Clay; that he did not level as high as the knees—not higher than the knee-band; "for it was no mercy to shoot a man in the knee;" that his only object was to disable him and spoil his aim. And then added, with a beauty of expression and a depth of feeling which no studied oratory can ever attain, and which I shall never forget, these impressive words: "*I would not have seen him fall mortally, or even doubtfully wounded, for all the land that is watered by the King of Floods and all his tributary streams.*" He left me to resume his post, utterly refusing to explain out of the Senate any thing that he had said in it, and with the positive declaration that he would not return the next fire. I withdrew a little way into the woods, and kept my eyes fixed on Mr. Randolph, who I then knew

to be the only one in danger. I saw him receive the fire of Mr. Clay, saw the gravel knocked up in the same place, saw Mr. Randolph raise his pistol—discharge it in the air; heard him say, '*I do not fire at you, Mr. Clay;*' and immediately advancing and offering his hand. He was met in the same spirit. They met half way, shook hands, Mr. Randolph saying, jocosely, '*You owe me a coat, Mr. Clay*—(the bullet had passed through the skirt of the coat, very near the hip)—to which Mr. Clay promptly and happily replied, '*I am glad the debt is no greater.*' I had come up, and was prompt to proclaim what I had been obliged to keep secret for eight days. The joy of all was extreme at this happy termination of a most critical affair; and we immediately left, with lighter hearts than we brought. I stopped to sup with Mr. Randolph and his friends—none of us wanted dinner that day—and had a characteristic time of it. A runner came in from the bank to say that they had overpaid him, by mistake, $130 that day. He answered, 'I believe *it is your rule not to correct mistakes, except at the time, and at your counter.*' And with that answer the runner had to return. When gone, Mr. Randolph said, '*I will pay it on Monday: people must be honest, if banks are not.*' He asked for the sealed paper he had given me, opened it, took out a check for $1,000, drawn in my favor, and with which I was requested to have him carried, if killed, to Virginia, and buried under his patrimonial oaks—not let him be buried at Washington, with an hundred hacks after him. He took the gold from his left breeches pocket, and said to us (Hamilton, Tatnall, and I), 'Gentlemen, Clay's bad shooting shan't rob you of your seals. I am going to London, and will have them made for you;' which he did, and most characteristically, so far as mine was concerned. He went to the herald's office in London and inquired for the Benton family, of which I had often told him there was none, as we only dated on that side from my grandfather in North Carolina. But the name was found, and with it a coat of arms—among the quarterings a lion rampant. That is the family, said he; and had the arms engraved on the seal, the same which I have since habitually worn; and added the motto, *Factis non verbis:* of which he was afterwards accustomed to say the *non* should be changed into *et*. But, enough. I run into these details, not merely to relate an event, but to show character; and if I have not done it, it is not for want of material, but of ability to use it.

On Monday the parties exchanged cards, and social relations were formally and courteously restored. It was about the last high-toned duel that I have witnessed, and among the highest-toned that I have ever witnessed, and so happily conducted to a fortunate issue—a result due to the noble character of the seconds as well as to the generous and heroic spirit of the principals. Certainly duelling is bad, and has been put down, but not quite so bad as its substitute—revolvers, bowie-knives, blackguarding, and street-assassinations under the pretext of self-defence.

CHAPTER XXVII.

DEATH OF MR. GAILLARD.

He was a senator from South Carolina, and had been continuously, from the year 1804. He was five times elected to the Senate—the first time for an unexpired term—and died in the course of a term; so that the years for which he had been elected were nearly thirty. He was nine times elected president of the Senate *pro tempore*, and presided fourteen years over the deliberations of that body,—the deaths of two Vice-Presidents during his time (Messrs. Clinton and Gerry), and the much absence of another (Gov. Tompkins), making long continued vacancies in the President's chair,—which he was called to fill. So many elections, and such long continued service, terminated at last only by death, bespeaks an eminent fitness both for the place of Senator, and that of presiding officer over the Senate. In the language of Mr. Macon, he seemed born for that station. Urbane in his manners, amiable in temper, scrupulously impartial, attentive to his duties, exemplary patience, perfect knowledge of the rules, quick and clear discernment, uniting absolute firmness of purpose, with the greatest gentleness of manners, setting young Senators right with a delicacy and amenity, which spared the confusion of a mistake—preserving order, not by authority of rules, but by the graces of deportment: such were the qualifications which commended him to the presidency of the Senate,

and which facilitated the transaction of business while preserving the decorum of the body. There was probably not an instance of disorder, or a disagreeable scene in the chamber, during his long continued presidency. He classed democratically in politics, but was as much the favorite of one side of the house as of the other, and that in the high party times of the war with Great Britain, which so much exasperated party spirit.

Mr. Gaillard was, as his name would indicate, of French descent, having issued from one of those Huguenot families, of which the bigotry of Louis XIV., dominated by an old woman, deprived France, for the benefit of other countries.

CHAPTER XXVIII.

AMENDMENT OF THE CONSTITUTION IN RELATION TO THE ELECTION OF PRESIDENT AND VICE-PRESIDENT.

The attempt was renewed at the session of 1825–'26 to procure an amendment to the constitution, in relation to the election of the two first magistrates of the republic, so as to do away with all intermediate agencies, and give the election to the direct vote of the people. Several specific propositions were offered in the Senate to that effect, and all substituted by a general proposition submitted by Mr. Macon—"that a select committee be appointed to report upon the best and most practicable mode of electing the President and Vice-President:" and, on the motion of Mr. Van Buren, the number of the committee was raised to nine—instead of five—the usual number. The members of it were appointed by Mr. Calhoun, the Vice-President, and were carefully selected, both geographically as coming from different sections of the Union, and personally and politically as being friendly to the object and known to the country. They were: Mr. Benton, chairman, Mr. Macon, Mr. Van Buren, Mr. Hugh L. White of Tennessee, Mr. Findlay of Pennsylvania, Mr. Dickerson of New Jersey, Mr. Holmes of Maine, Mr. Hayne of South Carolina, and Col. Richard M. Johnson of Kentucky. The committee agreed upon a proposition of amendment, dispensing with electors, providing for districts in which the direct vote of the people was to be taken; and obviating all excuse for caucuses and conventions to concentrate public opinion by proposing a second election between the two highest in the event of no one receiving a majority of the whole number of district votes in the first election. The plan reported was in these words:

"That, hereafter the President and Vice-President of the United States shall be chosen by the People of the respective States, in the manner following: Each State shall be divided by the legislature thereof, into districts, equal in number to the whole number of senators and representatives, to which such State may be entitled in the Congress of the United States; the said districts to be composed of contiguous territory, and to contain, as nearly as may be, an equal number of persons, entitled to be represented, under the constitution, and to be laid off, for the first time, immediately after the ratification of this amendment, and afterwards at the session of the legislature next ensuing the appointment of representatives, by the Congress of the United States; or oftener, if deemed necessary by the State; but no alteration, after the first, or after each decennial formation of districts, shall take effect, at the next ensuing election, after such alteration is made. That, on the first Thursday, and succeeding Friday, in the month of August, of the year one thousand eight hundred and twenty-eight, and on the same days in every fourth year thereafter, the citizens of each State, who possess the qualifications requisite for electors of the most numerous branch of the State Legislature, shall meet within their respective districts, and vote for a President and Vice-President of the United States, one of whom, at least, shall not be an inhabitant of the same State with himself: and the person receiving the greatest number of votes for President, and the one receiving the greatest number of votes for Vice-President in each district shall be holden to have received one vote: which fact shall be immediately certified to the Governor of the State, to each of the senators in Congress from such State, and to the President of the Senate. The right of affixing the places in the districts at which the elections shall be held, the manner of holding the same, and of canvassing the votes, and certifying the returns, is reserved, exclusively, to the legislatures of the States. The Congress of the United States shall be in session on the second Monday of October, in the year one thousand eight hundred and twenty-eight, and on the same day in every fourth year thereafter: and the President of the Senate, in the presence of the Senate and House of Representatives, shall open all the certificates, and the votes shall then be counted. The person having the greatest number of votes for President, shall be President, if such number be equal to a majority of the whole number of votes given; but if no per-

son have such majority, then a second election shall be held, on the first Thursday and succeeding Friday, in the month of December, then next ensuing, between the persons having the two highest numbers, for the office of President: which second election shall be conducted, the result certified, and the votes counted, in the same manner as in the first; and the person having the greatest number of votes for President, shall be the President. But, if two or more persons shall have received the greatest and equal number of votes, at the second election, the House of Representatives shall choose one of them for President, as is now prescribed by the constitution. The person having the greatest number of votes for Vice-President, at the first election, shall be the Vice-President, if such number be equal to a majority of the whole number of votes given, and, if no person have such majority, then a second election shall take place, between the persons having the two highest numbers, on the same day that the second election is held for President, and the person having the highest number of votes for Vice-President, shall be the Vice-President. But if two or more persons shall have received the greatest number of votes in the second election, then the Senate shall choose one of them for Vice-President, as is now provided in the constitution. But, when a second election shall be necessary, in the case of Vice-President, and not necessary in the case of President, then the Senate shall choose a Vice-President, from the persons having the two highest numbers in the first election, as is now prescribed in the constitution."

The prominent features of this plan of election are: 1. The abolition of electors, and the direct vote of the people; 2. A second election between the two highest on each list, when no one has a majority of the whole; 3. Uniformity in the mode of election.—The advantages of this plan would be to get rid of all the machinery by which the *selection* of their two first magistrates is now taken out of the hands of the people, and usurped by self-constituted, illegal, and irresponsible bodies,—and place it in the only safe, proper, and disinterested hands—those of the people themselves. If adopted, there would be no pretext for caucuses or conventions, and no resort to the House of Representatives,—where the largest State is balanced by the smallest. If any one received a majority of the whole number of districts in the first election, then the democratic principle—the *demos krateo*—the majority to govern—is satisfied. If no one receives such majority, then the first election stands for a popular nomination of the two highest—a nomination by the people themselves—out of which two the election is sure to be made on the second trial. But to provide for a possible contingency—too improbable almost ever to occur—and to save in that case the trouble of a third popular election, a resort to the House of Representatives is allowed; it being *nationally* unimportant which is elected where the candidates were exactly equal in the public estimation.—Such was the plan the committee reported; and it is the perfect plan of a popular election, and has the advantage of being applicable to all elections, federal and State, from the highest to the lowest. The machinery of its operation is easy and simple, and it is recommended by every consideration of public good, which requires the abandonment of a defective system, which has failed—the overthrow of usurping bodies, which have seized upon the elections—and the preservation to the people of the business of selecting, as well as electing, their own high officers. The plan was unanimously recommended by the whole committee, composed as it was of experienced men taken from every section of the Union. But it did not receive the requisite support of two-thirds of the Senate to carry it through that body; and a similar plan proposed in the House of Representatives received the same fate there—reported by a committee, and unsustained by two-thirds of the House: and such, there is too much reason to apprehend, may be the fate of future similar propositions, originating in Congress, without the powerful impulsion of the people to urge them through. Select bodies are not the places for popular reforms. These reforms are for the benefit of the people, and should begin with the people; and the constitution itself, sensible of that necessity in this very case, has very wisely made provision for the popular initiative of constitutional amendments. The fifth article of that instrument gives the power of beginning the reform of itself to the States, in their legislatures, as well as to the federal government in its Congress: and there is the place to begin, and before the people themselves in their elections to the general assembly. And there should be no despair on account of the failures already suffered. No great reform is carried suddenly. It requires years of persevering exertion to produce the unanimity of opinion which is necessary to a great popular reformation: but because it is difficult, it is not impossible. The greatest reform ever effected by peaceful means

in the history of any government was that of the parliamentary reform of Great Britain, by which the rotten boroughs were disfranchised, populous towns admitted to representation, the elective franchise extended, the House of Commons purified, and made the predominant branch—the master branch of the British government. And how was that great reform effected? By a few desultory exertions in the parliament itself? No, but by forty years of continued exertion, and by incessant appeals to the people themselves. The society for parliamentary reform, founded in 1792, by Earl Grey and Major Cartwright, succeeded in its efforts in 1832; and in their success there is matter for encouragement, as in their conduct there is an example for imitation. They carried the question to the people, and kept it there forty years, and saw it triumph—the two patriotic founders of the society living to see the consummation of their labors, and the country in the enjoyment of the inestimable advantage of a "Reformed Parliament."

CHAPTER XXIX.

REDUCTION OF EXECUTIVE PATRONAGE.

In the session 1825–'26, Mr. Macon moved that the select committee, to which had been committed the consideration of the propositions for amending the constitution in relation to the election of President and Vice-President, should also be charged with an inquiry into the expediency of reducing Executive patronage, in cases in which it could be done by law consistently with the constitution, and without impairing the efficiency of the government. The motion was adopted, and the committee (Messrs. Benton, Macon, Van Buren, White of Tennessee, Findlay of Pennsylvania, Dickerson, Holmes, Hayne, and Johnson of Kentucky) made a report, accompanied by six bills; which report and bills, though not acted upon at the time, may still have their use in showing the democratic principles, on practical points of that day (when some of the fathers of the democratic church were still among us);—and in recalling the administration of the government, to the simplicity and economy of its early days. The six bills reported were. 1. To regulate the publication of the laws of the United States, and of the public advertisements. 2. To secure in office the faithful collectors and disbursers of the revenue, and to displace defaulters. 3. To regulate the appointment of postmasters. 4. To regulate the appointment of cadets. 5. To regulate the appointment of midshipmen. 6. To prevent military and naval officers from being dismissed the service at the pleasure of the President.—In favor of the general principle, and objects of all the bills, the report accompanying them, said:

"In coming to the conclusion that Executive patronage ought to be diminished and regulated, on the plan proposed, the committee rest their opinion on the ground that the exercise of great patronage in the hands of one man, has a constant tendency to sully the purity of our institutions, and to endanger the liberties of the country. This doctrine is not new. A jealousy of power, and of the influence of patronage, which must always accompany its exercise, has ever been a distinguished feature in the American character. It displayed itself strongly at the period of the formation, and of the adoption, of the federal constitution. At that time the feebleness of the old confederation had excited a much greater dread of anarchy than of power—'of anarchy among the members than of power in the head'—and although the impression was nearly universal that a government of more energetic character had become indispensably necessary, yet, even under the influence of this conviction—such was the dread of power and patronage—that the States, with extreme reluctance, yielded their assent to the establishment of the federal government. Nor was this the effect of idle and visionary fears, on the part of an ignorant multitude, without knowledge of the nature and tendency of power. On the contrary, it resulted from the most extensive and profound political knowledge,—from the heads of statesmen, unsurpassed, in any age, in sagacity and patriotism. Nothing could reconcile the great men of that day to a constitution of so much power, but the guards which were put upon it against the abuse of power. Dread and jealousy of this abuse displayed itself throughout the instrument. To this spirit we are indebted for the freedom of the press, trial by jury, liberty of conscience, freedom of debate, responsibility to constituents, power of impeachment, the control of the Senate over appointments to office; and many other provisions of a like character. But the committee cannot imagine that the jealous foresight of the time, great as it was, or that any human sagacity, could have foreseen, and placed a competent guard upon, every possible avenue to the abuse of power. The nature of a constitutional act excludes the possibility of combining minute per

fection with general excellence. After the exertion of all possible vigilance, something of what ought to have been done, has been omitted; and much of what has been attempted, has been found insufficient and unavailing in practice. Much remains for us to do, and much will still remain for posterity to do—for those unborn generations to do, on whom will devolve the sacred task of guarding the temple of the constitution, and of keeping alive the vestal flame of liberty.

"The committee believe that they will be acting in the spirit of the constitution, in laboring to multiply the guards, and to strengthen the barriers, against the possible abuse of power. If a community could be imagined in which the laws should execute themselves—in which the power of government should consist in the enactment of laws—in such a state the machine of government would carry on its operations without jar or friction. Parties would be unknown, and the movements of the political machine would but little more disturb the passions of men, than they are disturbed by the operations of the great laws of the material world. But this is not the case. The scene shifts from this imaginary region, where laws execute themselves, to the theatre of real life, wherein they are executed by civil and military officers, by armies and navies, by courts of justice, by the collection and disbursement of revenue, with all its train of salaries, jobs, and contracts; and in this aspect of the reality, we behold the working of PATRONAGE, and discover the reason why so many stand ready, in any country, and in all ages, to flock to the standard of POWER, wheresoever, and by whomsoever, it may be raised.

"The patronage of the federal government at the beginning, was founded upon a revenue of two millions of dollars. It is now operating upon twenty-two millions; and, within the lifetime of many now living, must operate upon fifty. The whole revenue must, in a few years, be wholly applicable to subjects of patronage. At present about one half, say ten millions of it, are appropriated to the principal and interest of the public debt, which, from the nature of the object, involves but little patronage. In the course of a few years, this debt, without great mismanagement, must be paid off. A short period of peace, and a faithful application of the sinking fund, must speedily accomplish that most desirable object. Unless the revenue be then reduced, a work as difficult in republics as in monarchies, the patronage of the federal government, great as it already is, must, in the lapse of a few years, receive a vast accession of strength. The revenue itself will be doubled, and instead of one half being applicable to objects of patronage, the whole will take that direction. Thus, the reduction of the public debt, and the increase of revenue, will multiply in a four-fold degree the number of persons in the service of the federal government, the quantity of public money in their hands, and the number of objects to which it is applicable; but as each person employed will have a circle of greater or less diameter, of which he is the centre and the soul—a circle composed of friends and relations, and of individuals employed by himself on public or on private account—the actual increase of federal power and patronage by the duplication of the revenue, will be, not in the arithmetical ratio, but in geometrical progression—an increase almost beyond the power of the mind to calculate or to comprehend."

This was written twenty-five years ago. Its anticipations of increased revenue and patronage are more than realized. Instead of fifty millions of annual revenue during the lifetime of persons then living, and then deemed a visionary speculation, I saw it rise to sixty millions before I ceased to be a senator; and saw all the objects of patronage expanding and multiplying in the same degree, extending the circle of its influence, and, in many cases, reversing the end of its creation. Government was instituted for the protection of individuals—not for their support. Office was to be given upon qualifications to fill it—not upon the personal wants of the recipient. Proper persons were to be sought out and appointed—(by the President in the higher appointments, and by the heads of the different branches of service in the lower ones); and importunate suppliants were not to beg themselves into an office which belonged to the public, and was only to be administered for the public good. Such was the theory of the government. Practice has reversed it. Now office is sought for support, and for the repair of dilapidated fortunes; applicants obtrude themselves, and prefer "claims" to office. Their personal condition and party services, not qualification, are made the basis of the demand: and the crowds which congregate at Washington, at the change of an administration, supplicants for office, are humiliating to behold, and threaten to change the contests of parties from a contest for principle into a struggle for plunder.

The bills which were reported were intended to control, and regulate different branches of the public service, and to limit some exercises of executive power. 1. The publication of the government advertisements had been found to be subject to great abuse—large advertisements, and for long periods, having been often found to be given to papers of little circulation, and sometimes of no circulation at all, in places where the advertisement was to operate—the only effect of that favor being to conciliate the support of the paper,

or to sustain an efficient one. For remedy, the bill for that purpose provided for the selection, and the limitation of the numbers, of the newspapers which were to publish the federal laws and advertisements, and for the periodical report of their names to Congress. 2. The four years' limitation law was found to operate contrary to its intent, and to have become the facile means of getting rid of faithful disbursing officers, instead of retaining them. The object of the law was to pass the disbursing officers every four years under the supervision of the appointing power, for the inspection of their accounts, in order that defaulters might be detected and dropped, while the faithful should be ascertained and continued. Instead of this wholesome discrimination, the expiration of the four years' term came to be considered as the termination and vacation of all the offices on which it fell, and the creation of vacancies to be filled by new appointments at the option of the President. The bill to remedy this evil gave legal effect to the original intention of the law by confining the vacation of office to actual defaulters. The power of the President to dismiss civil officers was not attempted to be curtailed, but the restraints of responsibility were placed upon its exercise by requiring the cause of dismission to be communicated to Congress in each case. The section of the bill to that effect was in these words: "*That in all nominations made by the President to the Senate, to fill vacancies occasioned by an exercise of the President's power to remove from office, the fact of the removal shall be stated to the Senate at the same time that the nomination is made, with a statement of the reasons for which such officer may have been removed.*" This was intended to operate as a restraint upon removals without cause, and to make legal and general what the Senate itself, and the members of the committee individually, had constantly refused to do in isolated cases. It was the recognition of a principle essential to the proper exercise of the appointing power, and entirely consonant to Mr. Jefferson's idea of removals; but never admitted by any administration, nor enforced by the Senate against any one—always waiting the legal enactment. The opinion of nine such senators as composed the committee who proposed to legalize this principle, all of them democratic, and most of them aged and experienced, should stand for a persuasive reason why this principle should be legalized. 3. The appointment of military cadets was distributed according to the Congressional representation, and which has been adopted in practice, and perhaps become the patronage of the member from a district instead of the President. 5. The selection of midshipmen was placed on the same footing, and has been followed by the same practical consequence. 6. To secure the independence of the army and navy officers, the bill proposed to do, what never has been done by law,—define the tenure by which they held their commissions, and substitute "good behavior" for the clause which now runs "during the pleasure of the President." The clause in the existing commission was copied from those then in use, derived from the British government; and, in making army and navy officers subject to dismission at the will of the President, departs from the principle of our republican institutions, and lessens the independence of the officers.

CHAPTER XXX.

EXCLUSION OF MEMBERS OF CONGRESS FROM CIVIL OFFICE APPOINTMENTS.

An inquiry into the expediency of amending the constitution so as to prevent the appointment of any member of Congress to any federal office of trust or profit, during the period for which he was elected, was moved at the session 1825–26, by Mr. Senator Thomas W. Cobb, of Georgia; and his motion was committed to the consideration of the same select committee to which had been referred the inquiries into the expediency of reducing executive patronage, and amending the constitution in relation to the election of President and Vice-President. The motion as submitted only applied to the term for which the senator or representative was elected—only carried the exclusion to the end of his constitutional term; but the committee were of opinion that such appointments were injurious to the independence of Congress and to the purity of legislation; and believed that the limitation on the eligibility of members should be more comprehensive than the one proposed, and should extend

to the President's term under whom the member served as well as to his own—so as to cut off the possibility for a member to receive an appointment from the President to whom he might have lent a subservient vote: and the committee directed their chairman (Mr. Benton) to report accordingly. This was done; and a report was made, chiefly founded upon the proceedings of the federal convention which framed the constitution, and the proceedings of the conventions of the States which adopted it—showing that the total exclusion of members of Congress from all federal appointments was actually adopted in the convention on a full vote, and struck out in the absence of some members; and afterwards modified so as to leave an inadequate, and easily evaded clause in the constitution in place of the full remedy which had been at first provided. It also showed that conventions of several of the States, and some of the earlier Congresses, endeavored to obtain amendments to the constitution to cut off members of Congress entirely from executive patronage. Some extracts from that report are here given to show the sense of the early friends of the constitution on this important point. Thus:

"That, having had recourse to the history of the times in which the constitution was formed, the committee find that the proposition now referred to them, had engaged the deliberations of the federal convention which framed the constitution, and of several of the State conventions which ratified it.

"In an early stage of the session of the federal convention, it was resolved, as follows:

"'Article 6, section 9. The members of each House (of Congress) shall be ineligible to, and incapable of holding, any office under the authority of the United States, during the time for which they shall respectively be elected; and the members of the Senate shall be ineligible to, and incapable of holding any such office for one year afterwards.'

"It further appears from the journal, that this clause, in the first draft of the constitution, was adopted with great unanimity; and that afterwards, in the concluding days of the session, it was altered, and its intention defeated, by a majority of a single vote, in the absence of one of the States by which it had been supported.

"Following the constitution into the State conventions which ratified it, and the committee find, that, in the New-York convention, it was recommended, as follows:

"'That no senator or representative shall, during the time for which he was elected, be appointed to any office under the authority of the United States.

"By the Virginia convention, as follows:

"'That the members of the Senate and House of Representatives shall be ineligible to, and incapable of holding, any civil office under the authority of the United States, during the term for which they shall respectively be elected.'

"By the North Carolina convention, the same amendment was recommended, in the same words.

"In the first session of the first Congress, which was held under the constitution, a member of the House of Representatives submitted a similar proposition of amendment; and, in the third session of the eleventh Congress, James Madison being President, a like proposition was again submitted, and being referred to a committee of the House, was reported by them in the following words:

"'No senator or representative shall be appointed to any civil office, place, or emolument, under the authority of the United States, untill the expiration of the presidential term in which such person shall have served as a senator or representative.'

"Upon the question to adopt this resolution, the vote stood 71 yeas, 40 nays,—wanting but three votes of the constitutional number for referring it to the decision of the States.

"Having thus shown, by a reference to the venerable evidence of our early history, that the principle of the amendment now under consideration, has had the support and approbation of the first friends of the constitution, the committee will now declare their own opinion in favor of its correctness, and expresses its belief that the ruling principle in the organization of the federal government demands its adoption."

It is thus seen that in the formation of the constitution, and in the early ages of our government, there was great jealousy on this head—great fear of tampering between the President and the members—and great efforts made to keep each independent of the other. For the safety of the President, and that Congress should not have him in their power, he was made independent of them in point of salary. By a constitutional provision his compensation was neither to be diminished nor increased during the term for which he was elected;—not diminished, lest Congress should starve him into acquiescence in their views;—not increased, lest Congress should seduce him by tempting his cupidity with an augmented compensation. That provision secured the independence of the President; but the independence of the two Houses was still to be provided for; and that was imperfectly effected by two provisions—the first, prohibiting office holders under the federal government from taking a seat in either House; the second, by pro-

hibiting their appointment to any civil office that might have been created, or its emoluments increased, during the term for which he should have been elected. These provisions were deemed by the authors of the federalist (No. 55) sufficient to protect the independence of Congress, and would have been, if still observed in their spirit, as well as in their letter, as was done by the earlier Presidents. A very strong instance of this observance was the case of Mr. Alexander Smythe, of Virginia, during the administration of President Monroe. Mr. Smythe had been a member of the House of Representatives, and in that capacity had voted for the establishment of a judicial district in Western Virginia, and by which the office of judge was created. His term of service had expired: he was proposed for the judgeship: the letter of the constitution permitted the appointment: but its spirit did not. Mr. Smythe was entirely fit for the place, and Mr. Monroe entirely willing to bestow it upon him. But he looked to the spirit of the act, and the mischief it was intended to prevent, as well as to its letter; and could see no difference between bestowing the appointment the day after, or the day before, the expiration of Mr. Smythe's term of service: and he refused to make the appointment. This was protecting the purity of legislation according to the intent of the constitution; but it has not always been so. A glaring case to the contrary occurred in the person of Mr. Thomas Butler King, under the presidency of Mr. Fillmore. Mr. King was elected a member of Congress for the term at which the office of collector of the customs at San Francisco had been created, and had resigned his place: but the resignation could not work an evasion of the constitution, nor affect the principle of its provision. He had been appointed in the recess of Congress, and sent to take the place before his two years had expired —and did take it; and that was against the words of the constitution. His nomination was not sent in until his term expired—the day after it expired—having been held back during the regular session; and was confirmed by the Senate. I had then ceased to be a member of the Senate, and know not whether any question was raised on the nomination; but if I had been, there should have been a question.

But the constitutional limitation upon the appointment of members of Congress, even when executed beyond its letter and according to its spirit, as done by Mr. Monroe, is but a very small restraint upon their appointment, only applying to the few cases of new offices created, or of compensation increased, during the period of their membership. The whole class of regular vacancies remain open! All the vacancies which the President pleases to create, by an exercise of the removing power, are opened! and between these two sources of supply, the fund is ample for as large a commerce between members and the President—between subservient votes on one side, and executive appointments on the other—as any President, or any set of members, might choose to carry on. And here is to be noted a wide departure from the theory of the government on this point, and how differently it has worked from what its early friends and advocates expected. I limit myself now to Hamilton, Madison and Jay; and it is no narrow limit which includes three such men. Their names would have lived for ever in American history, among those of the wise and able founders of our government, without the crowning work of the "ESSAYS" in behalf of the constitution which have been embodied under the name of "FEDERALIST"—and which made that name so respectable before party assumed it. The defects of the constitution were not hidden from them in the depths of the admiration which they felt for its perfections; and these defects were noted, and as far as possible excused, in a work devoted to its just advocation. This point (of dangerous commerce between the executive and the legislative body) was obliged to be noticed—forced upon their notice by the jealous attacks of the "ANTI-FEDERALISTS"—as the opponents of the constitution were called: and in the number 55 of their work, they excused, and diminished, this defect in these terms:

"Sometimes we are told, that this fund of corruption (Executive appointments) is to be exhausted by the President in subduing the virtue of the Senate. Now, the fidelity of the other House is to be the victim. The improbability of such a mercenary and perfidious combination of the several members of the government, standing on as different foundations as republican principles will well admit, and at the same time accountable to the society over which they are placed, ought alone to quiet this apprehension. But, fortunately, the constitution has provided a still further safeguard. The members of the Congress are rendered ineligible to any civil offices that may be created, or of which the

emoluments may be increased, during the term of their election. No offices, therefore, can be dealt out to the existing members, but such as may become vacant by *ordinary casualties;* and to suppose that these would be sufficient to purchase the guardians of the people, selected by the people themselves, is to renounce every rule by which events ought to be calculated, and to substitute an indiscriminate and unbounded jealousy, with which all reasoning must be vain."

Such was their defence—the best which their great abilities, and ardent zeal, and patriotic devotion, could furnish. They could not deny the danger. To diminish its quantum, and to cover with a brilliant declamation the little that remained, was their resource. And, certainly if the working of the government had been according to their supposition, their defence would have been good. I have taken the liberty to mark in italics the ruling words contained in the quotation which I have made from their works—"*ordinary casualties.*" And what were they? deaths, resignations, removals upon impeachment, and dismissions by the President and Senate. This, in fact, would constitute a very small amount of vacancies during the presidential term; and as new offices, and those of increased compensation, were excluded, the answer was undoubtedly good, and even justified the visible contempt with which the objection was repulsed. But what has been the fact? what has been the working of the government at this point? and how stands this narrow limitation of vacancies to "*ordinary casualties?*" In the first place, the main stay of the argument in the Federalist was knocked from under it at the outset of the government; and so knocked by a side-blow from construction. In the very first year of the constitution a construction was put on that instrument which enabled the President to create as many vacancies as he pleased, and at any moment that he pleased. This was effected by yielding to him the kingly prerogative of dismissing officers without the formality of a trial, or the consent of the other part of the appointing power. The authors of the Federalist had not foreseen this construction: so far from it they had asserted the contrary: and arguing logically from the premises, "*that the dismissing power was appurtenant to the appointing power,*" they had maintained in that able and patriotic work—(No. 77)—that, as the consent of the Senate was necessary to the appointment of an officer, so the consent of the same body would be equally necessary to his dismission from office. But this construction was overruled by the first Congress which sat under the constitution. The power of dismission from office was abandoned to the President alone; and, with the acquisition of this prerogative, the power and patronage of the presidential office was instantly increased to an indefinite extent; and the argument of the Federalist against the capacity of the President to corrupt members of Congress, founded on the small number of places which he could use for that purpose, was totally overthrown. This is what has been done by construction. Now for the effects of legislation: and without going into an enumeration of statutes so widely extending and increasing executive patronage in the multiplication of offices, jobs, contracts, agencies, retainers, and sequiturs of all sorts, holding at the will of the President, it is enough to point to a single act—the four years' limitation act; which, by vacating almost the entire civil list—the whole "Blue Book"—the 40,000 places which it registers—in every period of a presidential term—puts more offices at the command of the President than the authors of the Federalist ever dreamed of; and enough to equip all the members and all their kin if they chose to accept his favors. But this is not the end. Large as it opens the field of patronage, it is not the end. There is a practice grown up in these latter times, which, upon every revolution of parties, makes a political exodus among the adversary office-holders, marching them off into the wilderness, and leaving their places for new-comers. This practice of itself, also unforeseen by the authors of the Federalist, again oversets their whole argument, and leaves the mischief from which they undertook to defend the constitution in a degree of vigor and universality of which the original opposers of that mischief had never formed the slightest conception.

Besides the direct commerce which may take place between the Executive and a member, there are other evils resulting from their appointment to office, wholly at war with the theory of our government, and the purity of its action. Responsibility to his constituents is the corner-stone and sheet-anchor, in the system of representative government. It is the substance without which representation is but a shadow. To secure that responsibility the constitution

has provided that the members shall be periodically returned to their constituents—those of the House at the end of every two years, those of the Senate at the end of every six—to pass in review before them—to account for what may have been done amiss, and to receive the reward or censure of good or bad conduct. This responsibility is totally destroyed if the President takes a member out of the hands of his constituents, prevents his return home, and places him in a situation where he is independent of their censure. Again: the constitution intended that the three departments of the government,—the executive, the legislative, and the judicial—should be independent of each other: and this independence ceases, between the executive and legislative, the moment the members become expectants and recipients of presidential favor;—the more so if the President should have owed his office to their nomination. Then it becomes a commerce, upon the regular principle of trade—a commerce of mutual benefit. For this reason Congress caucuses for the nomination of presidential candidates fell under the ban of public opinion, and were ostracised above twenty years ago—only to be followed by the same evil in a worse form, that of illegal and irresponsible "conventions;" in which the nomination is an election, so far as party power is concerned; and into which the member glides who no longer dares to go to a Congress caucus;—whom the constitution interdicts from being an elector—and of whom some do not blush to receive office, and even to demand it, from the President whom they have created. The framers of our government never foresaw—far-seeing as they were—this state of things, otherwise the exclusion of members from presidential appointments could never have failed as part of the constitution, (after having been first adopted in the original draught of that instrument); nor repulsed when recommended by so many States at the adoption of the constitution; nor rejected by a majority of one in the Congress of 1789, when proposed as an amendment, and coming so near to adoption by the House.

Thus far I have spoken of this abuse as a potentiality—as a possibility—as a thing which might happen: the inexorable law of history requires it to be written that it has happened, is happening, becomes more intense, and is ripening into a chronic disease of the body politic. When I first came to the Senate thirty years ago, aged members were accustomed to tell me that there were always members in the market, waiting to render votes, and to receive office; and that in any closely contested, or nearly balanced question, in which the administration took an interest, they could turn the decision which way they pleased by the help of these marketable votes. It was a humiliating revelation to a young senator—but true; and I have seen too much of it in my time—seen members whose every vote was at the service of government—to whom a seat in Congress was but the stepping-stone to executive appointment—to whom federal office was the pabulum for which their stomachs yearned—and who to obtain it, were ready to forget that they had either constituents or country. And now, why this mortifying exhibition of a disgusting depravity? I answer—to correct it:—if not by law and constitutional amendment (for it is hard to get lawgivers to work against themselves), at least by the force of public opinion, and the stern rebuke of popular condemnation.

I have mentioned Mr. Monroe as a President who would not depart, even from the spirit of the constitution, in appointing, not a member, but an ex-member of Congress, to office. Others of the earlier Presidents were governed by the same principle, of whom I will only mention (for his example should stand for all) General Washington, who entirely condemned the practice. In a letter to General Hamilton (vol. 6, page 53, of Hamilton's Works), he speaks of his objections to these appointments as a thing well known to that gentleman, and which he was only driven to think of in a particular instance, from the difficulty of finding a Secretary of State, successor to Mr. Edmund Randolph. No less than four persons had declined the offer of it; and seeing no other suitable person without going into the Senate, he offered it to Mr. Rufus King of that body—who did not accept it: and for this offer, thus made in a case of so much urgency, and to a citizen so eminently fit, Washington felt that the honor of his administration required him to show a justification. What would the Father of his country have thought if members had come to him to solicit office? and especially, if these members (a thing almost blasphemous to be imagined in connection with his name) had mixed in caucuses and

conventions to procure his nomination for President? Certainly he would have given them a look which would have sent such suppliants for ever from his presence. And I, who was senator for thirty years, and never had office for myself or any one of my blood, have a right to condemn a practice which my conduct rebukes, and which the purity of the government requires to be abolished, and which the early Presidents carefully avoided.

CHAPTER XXXI.

DEATH OF THE EX-PRESIDENTS JOHN ADAMS AND THOMAS JEFFERSON.

It comes within the scope of this View to notice the deaths and characters of eminent public men who have died during my time, although not my contemporaries, and who have been connected with the founding or early working of the federal government. This gives me a right to head a chapter with the names of Mr. John Adams and Mr. Jefferson—two of the most eminent political men of the revolution, who, entering public life together, died on the same day,—July 4th, 1826,—exactly fifty years after they had both put their hands to that Declaration of Independence which placed a new nation upon the theatre of the world. Doubtless there was enough of similitude in their lives and deaths to excuse the belief in the interposition of a direct providence, and to justify the feeling of mysterious reverence with which the news of their coincident demise was received throughout the country. The parallel between them was complete. Born nearly at the same time, Mr. Adams the elder, they took the same course in life—with the same success—and ended their earthly career at the same time, and in the same way:—in the regular course of nature, in the repose and tranquillity of retirement, in the bosom of their families, and on the soil which their labors had contributed to make free.

Born, one in Massachusetts, the other in Virginia, they both received liberal educations, embraced the same profession (that of the law), mixed literature and science with their legal studies and pursuits, and entered early into the ripening contest with Great Britain—first in their counties and States, and then on the broader field of the General Congress of the Confederated Colonies. They were both members of the Congress which declared Independence—both of the committee which reported the Declaration—both signed it—were both employed in foreign missions—both became Vice-Presidents—and both became Presidents. They were both working men; and, in the great number of efficient laborers in the cause of Independence which the Congresses of the Revolution contained, they were doubtless the two most efficient—and Mr. Adams the more so of the two. He was, as Mr. Jefferson styled him, "the Colossus" of the Congress—speaking, writing, counselling—a member of ninety different committees, and (during his three years' service) chairman of twenty five—chairman also of the board of war and board of appeals: his soul on fire with the cause, left no rest to his head, hands, or tongue. Mr. Jefferson drew the Declaration of Independence, but Mr. Adams was "the pillar of its support, and its ablest advocate and defender," during the forty days it was before the Congress. In the letter which he wrote that night to Mrs. Adams (for, after all the labors of the day, and such a day, he could still write to her), he took a glowing view of the future, and used those expressions, "gloom" and "glory," which his son repeated in the paragraph of his message to Congress in relation to the deaths of the two ex-Presidents, which I have heard criticized by those who did not know their historical allusion, and could not feel the force and beauty of their application. They were words of hope and confidence when he wrote them, and of history when he died. "I am well aware of the toil, and blood, and treasure, that it will cost to maintain this Declaration, and to support and defend these States; yet through all the *gloom*, I can see the rays of light and *glory!*" and he lived to see it—to see the glory—with the bodily, as well as with the mental eye. And (for the great fact will bear endless repetition) it was he that conceived the idea of making Washington commander-in-chief, and prepared the way for his unanimous nomination.

In the division of parties which ensued the establishment of the federal government, Mr. Adams and Mr. Jefferson differed in systems of

policy, and became heads of opposite divisions, but without becoming either unjust or unkind to each other. Mr. Adams sided with the party discriminated as federal; and in that character became the subject of political attacks, from which his competitor generously defended him, declaring that "a more perfectly honest man never issued from the hands of his Creator;" and, though opposing candidates for the presidency, neither would have any thing to do with the election, which they considered a question between the systems of policy which they represented, and not a question between themselves. Mr. Jefferson became the head of the party then called republican—now democratic; and in that character became the founder of the political school which has since chiefly prevailed in the United States. He was a statesman: that is to say, a man capable of conceiving measures useful to the country and to mankind—able to recommend them to adoption, and to administer them when adopted. I have seen many politicians—a few statesmen—and, of these few, he their pre-eminent head. He was a republican by nature and constitution, and gave proofs of it in the legislation of his State, as well as in the policy of the United States. He was no speaker, but a most instructive and fascinating talker; and the Declaration of Independence, even if it had not been sistered by innumerable classic productions, would have placed him at the head of political writers. I never saw him but once, when I went to visit him in his retirement; and then I felt, for four hours, the charms of his bewitching talk. I was then a young senator, just coming on the stage of public life—he a patriarchal statesman just going off the stage of natural life, and evidently desirous to impress some views of policy upon me—a design in which he certainly did not fail. I honor him as a patriot of the Revolution—as one of the Founders of the Republic—as the founder of the political school to which I belong; and for the purity of character which he possessed in common with his compatriots, and which gives to the birth of the United States a beauty of parentage which the genealogy of no other nation can show.

CHAPTER XXXII.

BRITISH INDEMNITY FOR DEPORTED SLAVES.

In this year was brought to a conclusion the long-continued controversy with Great Britain in relation to the non-fulfilment of the first article of the treaty of Ghent (1814), for the restitution of slaves carried off by the British troops in the war of 1812. It was a renewal of the misunderstanding, but with a better issue, which grew up under the seventh article of the treaty of peace of 1783 upon the same subject. The power of Washington's administration was not able to procure the execution of that article, either by restoration of the slaves or indemnity. The slaves then taken away were carried to Nova Scotia, where, becoming an annoyance, they were transferred to Sierra Leone; and thus became the foundation of the British African colony there. The restitution of deported slaves, stipulated in the first article of the Ghent treaty, could not be accomplished between the two powers; they disagreed as to the meaning of words; and, after seven years of vain efforts to come to an understanding, it was agreed to refer the question to arbitrament. The Emperor Alexander accepted the office of arbitrator, executed it, and decided in favor of the United States. That decision was as unintelligible to Great Britain as all the previous treaty stipulations on the same subject had been. She could not understand it. A second misunderstanding grew up, giving rise to a second negotiation, which was concluded by a final agreement to pay the value of the slaves carried off. In 1827 payment was made—twelve years after the injury and the stipulation to repair it, and after continued and most strenuous exertions to obtain redress.

The case was this: it was a part of the system of warfare adopted by the British, when operating in the slave States, to encourage the slaves to desert from their owners, promising them freedom; and at the end of the war these slaves were carried off. This carrying off was foreseen by the United States Commissioners at Ghent, and in the first article of the treaty was provided against in these words; "all places taken, &c. shall be restored without delay, &c., or carrying away any of the artillery, or other public

property originally captured in the said posts or places, and which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves or other private property." The British Government undertook to extend the limitation which applied to public property to that which was private also; and so to restore only such slaves as were originally captured within the forts, and which remained therein at the time of the exchange of ratifications—a construction which would have excluded all that were induced to run away, being nearly the whole; and all that left the forts before the exchange of ratifications, which would have included the rest. She adhered to the construction given to the parallel article in the treaty of 1783, and by which all slaves taken during the war were held to be lawful prize of war, and free under the British proclamation, and not to be compensated for. The United States, on the contrary, confined this local limitation to things appurtenant to the forts; and held the slaves to be private property, subject to restitution, or claim for compensation, if carried away at all, no matter how acquired.

The point was solemnly carried before the Emperor Alexander, the United States represented by their minister, Mr. Henry Middleton, and Great Britain by Sir Charles Bagot—the Counts Nesselrode and Capo D'Istrias receiving the arguments to be laid before the Emperor. His Majesty's decision was peremptory; "that the United States of America are entitled to a just indemnification from Great Britain for all private property carried away by the British forces; and, as the question regards slaves more especially, for all such slaves as were carried away by the British forces from the places and territories of which the restitution was stipulated by the treaty, in quitting the said places and territories." This was explicit; but the British minister undertook to understand it as not applying to slaves who *voluntarily* joined the British troops to free themselves from bondage, and who came from places never in *possession* of the British troops; and he submitted a note to that effect to the Russian minister, Count Nesselrode, to be laid before the Emperor. To this note Alexander gave an answer which is a model of categorical reply to unfounded dubitation. He said: "the Emperor having, by the mutual consent of the two plenipotentiaries, given an opinion, founded solely upon the sense which results from the text of the article in dispute, does not think himself called upon to decide here any question relative to what the laws of war permit or forbid to the belligerents; but, always faithful to the grammatical interpretation of the first article of the treaty of Ghent, his Imperial Majesty declares, a second time, that it appears to him, according to this interpretation, that, in quitting the places and territories of which the treaty of Ghent stipulates the restitution to the United States, his Britannic Majesty's forces had no right to carry away from the same places and territories, absolutely, any slave, by whatever means he had fallen or come into their power." This was the second declaration, the second decision of the point; and both parties having bound themselves to abide the decision, be it what it might, a convention was immediately concluded for the purpose of carrying the Emperor's decision into effect, by establishing a board to ascertain the number and value of the deported slaves. It was a convention formally drawn up, signed by the ministers of the three powers, done in triplicate, ratified, and ratifications exchanged, and the affair considered finished. Not so the fact! New misunderstanding, new negotiation, five years more consumed in diplomatic notes, and finally a new convention concluded! Certainly it was not the value of the property in controversy, not the amount of money to be paid, that led Great Britain to that pertinacious resistance, bordering upon cavilling and bad faith. It was the loss of an advantage in war—the loss of the future advantage of operating upon the slave States through their slave property, and which advantage would be lost if this compensation was enforced,—which induced her to stand out so long against her own stipulations, and the decisions of her own accepted arbitrator.

This new or third treaty, making indemnity for these slaves, was negotiated at London, November, 1826, between Mr. Gallatin on the part of the United States, and Messrs. Huskisson and Addington on the part of Great Britain. It commenced with reciting that "difficulties having arisen in the execution of the convention concluded at St. Petersburg, July 12th, 1822, under the mediation of his majesty the Emperor of all the Russias, between the United States of America and Great Britain, for the purpose of carrying into effect the decision of his Imperial Majesty

upon the differences which had arisen between the said United States and Great Britain as to the true construction and meaning of the first article of the treaty of Ghent, *therefore* the said parties agree to treat again," &c. The result of this third negotiation was to stipulate for the payment of a gross sum to the government of the United States, to be by it divided among those whose slaves had been carried off: and the sum of one million two hundred and four thousand nine hundred and sixty dollars was the amount agreed upon. This sum was satisfactory to the claimants, and was paid to the United States for their benefit in the year 1827—just twelve years after the conclusion of the war, and after two treaties had been made, and two arbitrations rendered to explain the meaning of the first treaty, and which fully explained itself. Twelve years of persevering exertion to obtain the execution of a treaty stipulation which solely related to private property, and which good faith and sheer justice required to have been complied with immediately! At the commencement of the session of Congress, 1827-28, the President, Mr. John Quincy Adams, was able to communicate the fact of the final settling and closing up of this demand upon the British government for the value of the slaves carried off by its troops. The sum received was large, and ample to pay the damages; but that was the smallest part of the advantage gained. The example and the principle were the main points—the enforcement of such a demand against a government so powerful, and after so much resistance, and the condemnation which it carried, and the responsibilty which it implied—this was the grand advantage. Liberation and abduction of slaves was one of the modes of warfare adopted by the British, and largely counted on as a means of harassing and injuring one half of the Union. It had been practised during the Revolution, and indemnity avoided. If avoided a second time, impunity would have sanctioned the practice and rendered it inveterate; and in future wars, not only with Great Britain but with all powers, this mode of annoyance would have become an ordinary resort, leading to servile insurrections. The indemnity exacted carried along with it the condemnation of the practice, as a spoliation of private property to be atoned for; and was both a compensation for the past and a warning for the future. It implied a responsibility which no power, or art, or time could evade, and the principle of which being established, there will be no need for future arbitrations.

I have said that this article in the treaty of Ghent for restitution, or compensation, for deported slaves was brought to a better issue than its parallel in the treaty of peace of 1783. By the seventh article of this treaty it was declared that the evacuation (by the British troops) should be made "without carrying away any negroes or other property belonging to the American inhabitants." Yet three thousand slaves were carried away (besides ten times that number—27,000 in Virginia alone—perishing of disease in the British camps); and neither restitution nor compensation made for any part of them. Both were resisted—the restitution by Sir Guy Carleton in his letter of reply to Washington's demand, declaring it to be an impossible infamy in a British officer to give up those whom they had invited to their standard; but reserving the point for the consideration of his government, and, in the mean time, allowing and facilitating the taking of schedules of all slaves taken away—names, ages, sex, former owners, and States from which taken. The British government resisted compensation upon the ground of war captures; that, being taken in war, no matter how, they became, like other plunder, the property of the captors, who had a right to dispose of it as they pleased, and had chosen to set it free; that the slaves, having become free, belonged to nobody, and consequently it was no breach of the treaty stipulation to carry them away. This ground was contested by the Congress of the confederation to the end of its existence, and afterwards by the new federal government, from its commencement until the claim for indemnity was waived or abandoned, at the conclusion of Jay's treaty, in 1796. The very first message of Washington to Congress when he became President, presented the inexecution of the treaty of peace in this particular, among others, as one of the complaints justly existing against Great Britain; and all the diplomacy of his administration was exerted to obtain redress—in vain. The treaties of '94 and '96 were both signed without allusion to the subject; and, being left unprovided for in these treaties, the claim sunk into the class of obsolete demands; and the stipulation remained in the treaty a dead letter, although containing the precise

words, and the additional one "negroes," on which the Emperor Alexander took the stand which commanded compensation and dispensed with arguments founded in the laws of war. Not a shilling had been received for that immense depredation upon private property; although the Congress of the confederation adopted the strongest resolves, and even ordered each State to be furnished with copies of the schedules of the slaves taken from it; and hopes of indemnity were kept alive until extinguished by the treaty of '96. It was a bitter complaint against that treaty, as the Congress debates of the time, and the public press, abundantly show.

Northern men did their duty to the South in getting compensation (and, what is infinitely more, establishing the principle that there shall be compensation in such cases) for the slaves carried away in the war of 1812. A majority of the commissioners at Ghent who obtained the stipulation for indemnity were Northern men—Adams, Russell, Gallatin, from the free, and Clay and Bayard from the slave States. A Northern negotiator (Mr. Gallatin), under a Northern President (Mr. John Quincy Adams), finally obtained it; and it is a coincidence worthy of remark that this Northern negotiator, who was finally successful, was the same debater in Congress, in '96, who delivered the best argument (in my opinion surpassing even that of Mr. Madison), against the grounds on which the British Government resisted the execution of this article of the treaty.

I am no man to stir up old claims against the federal government; and, I detest the trade which exhumes such claims, and deplore the facility with which they are considered—too often in the hands of speculators who gave nothing, or next to nothing, for them. But I must say that the argument on which the French spoliation claim is now receiving so much consideration, applies with infinitely more force to the planters whose slaves were taken during the war of the Revolution than in behalf of these French spoliation claims. They were contributing—some in their persons in the camp or council, all in their voluntary or tax contributions—to the independence of their country when they were thus despoiled of their property. They depended upon these slaves to support their families while they were supporting their country. They were in debt to British merchants, and relied upon compensation for these slaves to pay those debts, at the very moment when compensation was abandoned by the same treaty which enforced the payment of the debts. They had a treaty obligation for indemnity, express in its terms, and since shown to be valid, when deprived of this stipulation by another treaty, in order to obtain general advantages for the whole Union. This is something like taking private property for public use. Three thousand slaves, the property of ascertained individuals, protected by a treaty stipulation, and afterwards abandoned by another treaty, against the entreaties and remonstrances of the owners, in order to obtain the British commercial treaty of '94, and its supplement of '96: such is the case which this revolutionary spoliation of slave property presents, and which puts it immeasurably ahead of the French spoliation claims prior to 1800. There is but four years' difference in their ages—in the dates of the two treaties by which they were respectively surrendered—and every other difference between the two cases is an argument of preference in favor of the losers under the treaty of 1796. Yet I am against both, and each, separately or together; and put them in contrast to make one stand as an argument against the other. But the primary reason for introducing the slave spoliation case of 1783, and comparing its less fortunate issue with that of 1812, was to show that Northern men will do justice to the South; that Northern men obtained for the South an indemnity and security in our day which a Southern Administration, with Washington at its head, had not been able to obtain in the days of our fathers.

CHAPTER XXXIII.

MEETING OF THE FIRST CONGRESS ELECTED UNDER THE ADMINISTRATION OF MR. ADAMS.

The nineteenth Congress, commencing its legal existence, March the 4th, 1825, had been chiefly elected at the time that Mr. Adams' administration commenced, and the two Houses stood divided with respect to him—the majority of the Representatives being favorable to him, while the

majority of the Senate was in opposition. The elections for the twentieth Congress—the first under his administration—were looked to with great interest, both as showing whether the new President was supported by the country, and his election by the House sanctioned, and also as an index to the issue of the ensuing presidential election. For, simultaneously with the election in the House of Representatives did the canvass for the succeeding election begin—General Jackson being the announced candidate on one side, and Mr. Adams on the other: and the event involving not only the question of merits between the parties, but also the question of approved or disapproved conduct on the part of the representatives who elected Mr. Adams. The elections took place, and resulted in placing an opposition majority in the House of Representatives, and increasing the strength of the opposition majority in the Senate. The state of parties in the House was immediately tested by the election of speaker, Mr. John W. Taylor, of New-York, the administration candidate, being defeated by Mr. Andrew Stevenson, of Virginia, in the opposition. The appointment of the majority of members on all the committees, and their chairmen, in both Houses adverse to the administration, was a regular consequence of the inflamed state of parties, although the proper conducting of the public business would demand for the administration the chairman of several important committees, as enabling it to place its measures fairly before the House. The speaker (Mr. Stevenson) could only yield to this just sense of propriety in the case of one of the committees, that of foreign relations, to which Mr. Edward Everett, classing as the political and personal friend of the President, was appointed chairman. In other committees, and in both Houses, the stern spirit of the times prevailed; and the organization of the whole Congress was adverse to the administration.

The presidential message contained no new recommendations, but referred to those previously made, and not yet acted upon; among which internal improvement, and the encouragement of home industry, were most prominent. It gave an account of the failure of the proposed congress of Panama; and, consequently, of the inutility of all our exertions to be represented there. And, as in this final and valedictory notice by Mr. Adams of that once far-famed congress, he took occasion to disclaim some views attributed to him, I deem it just to give him the benefit of his own words, both in making the disclaimer, and in giving the account of the abortion of an impracticable scheme which had so lately been prosecuted, and opposed, with so much heat and violence in our own country. He said of it:

"Disclaiming alike all right and all intention of interfering in those concerns which it is the prerogative of their independence to regulate as to them shall seem fit, we hail with joy every indication of their prosperity, of their harmony, of their persevering and inflexible homage to those principles of freedom and of equal rights, which are alone suited to the genius and temper of the American nations. It has been therefore with some concern that we have observed indications of intestine divisions in some of the republics of the South, and appearances of less union with one another, than we believe to be the interest of all. Among the results of this state of things has been that the treaties concluded at Panama do not appear to have been ratified by the contracting parties, and that the meeting of the Congress at Tacubaya has been indefinitely postponed. In accepting the invitations to be represented at this Congress, while a manifestation was intended on the part of the United States, of the most friendly disposition towards the Southern republics by whom it had been proposed, it was hoped that it would furnish an opportunity for bringing all the nations of this hemisphere to the common acknowledgment and adoption of the principles, in the regulation of their international relations, which would have secured a lasting peace and harmony between them, and have promoted the cause of mutual benevolence throughout the globe. But as obstacles appear to have arisen to the reassembling of the Congress, one of the two ministers commissioned on the part of the United States has returned to the bosom of his country, while the minister charged with the ordinary mission to Mexico remains authorized to attend at the conferences of the Congress whenever they may be resumed."

This is the last that was heard of that so much vaunted Congress of American nations, and in the manner in which it died out of itself, among those who proposed it, without ever having been reached by a minister from the United States, we have the highest confirmation of the soundness of the objections taken to it by the opposition members of the two Houses of our Congress.

In stating the condition of the finances, the message, without intending it, gave proof of the paradoxical proposition, first, I believe, broached

by myself, that an annual revenue to the extent of a fourth or a fifth below the annual expenditure, is sufficient to meet that annual expenditure; and consequently that there is no necessity to levy as much as is expended, or to provide by law for keeping a certain amount in the treasury when the receipts are equal, or superior to the expenditure. He said:

"The balance in the treasury on the first of January last was six millions three hundred and fifty-eight thousand six hundred and eighty-six dollars and eighteen cents. The receipts from that day to the 30th of September last, as near as the returns of them yet received can show, amount to sixteen millions eight hundred and eighty-six thousand five hundred and eighty-one dollars and thirty-two cents. The receipts of the present quarter, estimated at four millions five hundred and fifteen thousand, added to the above, form an aggregate of twenty-one millions four hundred thousand dollars of receipts. The expenditures of the year may perhaps amount to twenty-two millions three hundred thousand dollars, presenting a small excess over the receipts. But of these twenty-two millions, upwards of six have been applied to the discharge of the principal of the public debt; the whole amount of which, approaching seventy-four millions on the first of January last, will on the first day of next year fall short of sixty-seven millions and a half. The balance in the treasury on the first of January next, it is expected, will exceed five millions four hundred and fifty thousand dollars; a sum exceeding that of the first of January, 1825, though falling short of that exhibited on the first of January last."

In this statement the expenditures of the year are shown to exceed the income, and yet to leave a balance, about equal to one fourth of the whole in the treasury at the end of the year; also that the balance was larger at the end of the preceding year, and nearly the same at the end of the year before. And the message might have added, that these balances were about the same at the end of every quarter of every year, and every day of every quarter—all resulting from the impossibility of applying money to objects until there has been time to apply it. Yet in the time of those balances of which Mr. Adams speaks, there was a law to retain two millions in the treasury; and now there is a law to retain six millions; while the current balances, at the rate of a fourth or a fifth of the income, are many times greater than the sum ordered to be retained; and cannot be reduced to that sum, by regular payments from the treasury, until the revenue itself is reduced below the expenditure. This is a financial paradox, sustainable upon reason, proved by facts, and visible in the state of the treasury at all times; yet I have endeavored in vain to establish it; and Congress is as careful as ever to provide an annual income equal to the annual expenditure; and to make permanent provision by law to keep up a reserve in the treasury; which would be there of itself without such law as long as the revenue comes within a fourth or a fifth of the expenditure.

The following members composed the two Houses at this, the first session of the twentieth Congress:

SENATE.

Maine—John Chandler, Albion K. Parris.
New Hampshire—Samuel Bell, Levi Woodbury.
Massachusetts—Nathaniel Silsbee, Daniel Webster.
Connecticut—Samuel A. Foot, Calvin Willey.
Rhode Island—Nehemiah R. Knight, Asher Robbins.
Vermont—Dudley Chase, Horatio Seymour.
New-York—Martin Van Buren, Nathan Sanford.
New Jersey—Mahlon Dickerson, Ephraim Bateman.
Pennsylvania—William Marks, Isaac D. Barnard.
Delaware—Louis M'Lane, Henry M. Ridgeley.
Maryland—Ezekiel F. Chambers, Samuel Smith.
Virginia—Littleton W. Tazewell, John Tyler.
North Carolina—John Branch, Nathaniel Macon.
South Carolina—William Smith, Robert Y. Hayne.
Georgia—John M'Pherson Berrien, Thomas W. Cobb.
Kentucky—Richard M. Johnson, John Rowan
Tennessee—John H. Eaton, Hugh L. White.
Ohio—William H. Harrison, Benjamin Ruggles.
Louisiana—Dominique Bouligny, Josiah S. Johnston.
Indiana—William Hendricks, James Noble.
Mississippi—Powhatan Ellis, Thomas H. Williams.
Illinois—Elias K. Kane, Jesse B. Thomas.
Alabama—John McKinley, William R. King.
Missouri—David Barton, Thomas H. Benton.

HOUSE OF REPRESENTATIVES.

Maine—John Anderson, Samuel Butman, Rufus M'Intire, Jeremiah O'Brien, James W. Ripley, Peleg Sprague, Joseph F. Wingate—7.
New Hampshire—Ichabod Bartlett, David

Barker, jr., Titus Brown, Joseph Healey, Jonathan Harvey, Thomas Whipple, jr.—6.

Massachusetts—Samuel C. Allen, John Bailey, Issac C. Bates, B. W. Crowninshield, John Davis, Henry W. Dwight, Edward Everett, Benjamin Gorham, James L. Hodges, John Locke, John Reed, Joseph Richardson, John Varnum—15.

Rhode Island—Tristam Burges, Dutee J. Pearce—2

Connecticut—John Baldwin. Noyes Barber, Ralph J. Ingersoll, Orange Merwin, Elisha Phelps, David Plant—6.

Vermont—Daniel A. A. Buck, Jonathan Hunt, Rolin C. Mallary, Benjamin Swift, George E. Wales—5.

New-York—Daniel D. Barnard, George O. Belden, Rudolph Bunner, C. C. Cambreleng, Samuel Chase, John C. Clark, John D. Dickinson, Jonas Earll, jr., Daniel G. Garnsey, Nathaniel Garrow, John I. De Graff, John Hallock, jr., Selah R. Hobbie, Michael Hoffman, Jeromus Johnson, Richard Keese, Henry Markell, H. C. Martindale, Dudley Marvin, John Magee, John Maynard, Thomas J. Oakley, S. Van Rensselaer, Henry R. Storrs, James Strong, John G. Stower, Phineas L. Tracy, John W. Taylor, G. C. Verplanck, Aaron Ward, John J. Wood, Silas Wood, David Woodcock, Silas Wright, jr.—34.

New Jersey—Lewis Condict, George Holcombe, Isaac Pierson, Samuel Swan, Edge Thompson, Ebenezer Tucker—6

Pennsylvania—William Addams, Samuel Anderson, Stephen Barlow, James Buchanan, Richard Coulter, Chauncey Forward, Joseph Fry, jr., Innes Green, Samuel D. Ingham, George Kremer, Adam King, Joseph Lawrence, Daniel H. Miller, Charles Miner, John Mitchell, Samuel M'Kean, Robert Orr, jr., William Ramsay, John Sergeant, James S. Stevenson, John B. Sterigere, Andrew Stewart, Joel B. Sutherland, Espy Van Horn, James Wilson, George Wolf—26.

Delaware—Kensy Johns. jr.—1.

Maryland—John Barney, Clement Dorsey, Levin Gale, John Leeds Kerr, Peter Little, Michael C. Sprigg, G. C. Washington, John C. Weems, Ephraim K. Wilson—9.

Virginia—Mark Alexander, Robert Allen, Wm. S. Archer, Wm. Armstrong, jr., John S. Barbour, Philip P. Barbour, Burwell Bassett, N. H. Claiborne, Thomas Davenport, John Floyd, Isaac Leffler, Lewis Maxwell, Charles F. Mercer, William M'Coy, Thomas Newton, John Randolph, William C. Rives, John Roane, Alexander Smyth, A Stevenson, John Talliaferro, James Trezvant—22.

North Carolina—Willis Alston, Daniel L. Barringer, John H. Bryan, Samuel P. Carson, Henry W. Conner, John Culpeper, Thomas H. Hall, Gabriel Holmes, John Long, Lemuel Sawyer, A. H. Shepperd, Daniel Turner, Lewis Williams—13.

South Carolina—John Carter, Warren R. Davis, William Drayton, James Hamilton, jr., George M'Duffie, William D. Martin, Thomas R. Mitchell, Wm. T. Nuckolls, Starling Tucker—9.

Georgia—John Floyd, Tomlinson Fort, Charles E. Haynes, George R. Gilmer, Wilson Lumpkin, Wiley Thompson, Richard H. Wilde—7

Kentucky—Richard A. Buckner, James Clark, Henry Daniel, Joseph Lecompte, Robert P. Letcher, Chittenden Lyon, Thomas Metcalfe, Robert M'Hatton, Thomas P. Moore, Charles A. Wickliffe, Joel Yancey, Thomas Chilton—12.

Tennessee—John Bell, John Blair, David Crockett, Robert Desha, Jacob C. Isacks, Pryor Lea, John H. Marable, James C. Mitchell, James K. Polk—9.

Ohio—Mordecai Bartley, Philemon Beecher, William Creighton, jr., John Davenport, James Findlay, Wm. M'Lean, William Russell, John Sloane, William Stanberry, Joseph Vance, Samuel F. Vinton, Elisha Whittlesey, John Woods, John C. Wright—14.

Louisiana—William L. Brent, Henry H. Gurley, Edward Livingston—3.

Indiana—Thomas H. Blake, Jonathan Jennings, Oliver H. Smith—3.

Mississippi—William Haile—1.

Illinois—Joseph Duncan—1.

Alabama—Gabriel Moore, John M'Kee, George W. Owen—3.

Missouri—Edward Bates—1.

DELEGATES.

Arkansas Territory—A. H. Sevier.
Michigan Territory—Austin E. Wing.
Florida Territory—Joseph M. White.

This list of members presents an immense array of talent, and especially of business talent; and in its long succession of respectable names, many will be noted as having attained national reputations—others destined to attain that distinction—while many more, in the first class of useful and respectable members, remained without national renown for want of that faculty which nature seems most capriciously to have scattered among the children of men—the faculty of fluent and copious speech;—giving it to some of great judgment—denying it to others of equal, or still greater judgment—and lavishing it upon some of no judgment at all. The national eyes are fixed upon the first of these classes—the men of judgment and copious speech; and even those in the third class obtain national notoriety; while the men in the second class—the men of judgment and few words—are extremely valued and respected in the bodies to which they belong and have great weight in the conduct of business They are, in fact, the business men, often more practical and efficient than the great orators. This twentieth Congress, as all others that have

been, contained a large proportion of these most useful and respectable members; and it will be the pleasant task of this work to do them the justice which their modest merit would not do for themselves.

CHAPTER XXXIV.

REVISION OF THE TARIFF.

THE tariff of 1828 is an era in our legislation, being the event from which the doctrine of "nullification" takes its origin, and from which a serious division dates between the North and the South. It was the work of politicians and manufacturers; and was commenced for the benefit of the woollen interest, and upon a bill chiefly designed to favor that branch of manufacturing industry. But, like all other bills of the kind, it required help from other interests to get itself along; and that help was only to be obtained by admitting other interests into the benefits of the bill. And so, what began as a special benefit, intended for the advantage of a particular interest, became general, and ended with including all manufacturing interests—or at least as many as were necessary to make up the strength necessary to carry it. The productions of different States, chiefly in the West, were favored by additional duties on their rival imports; as lead in Missouri and Illinois, and hemp of Kentucky; and thus, though opposed to the object of the bill, many members were necessitated to vote for it. Mr. Rowan, of Kentucky, well exposed the condition of others in this respect, in showing his own in some remarks which he made, and in which he said:

"He was not opposed to the tariff as a system of revenue, honestly devoted to the objects and purposes of revenue—on the contrary, he was friendly to a tariff of that character; but when perverted by the ambition of political aspirants, and the secret influence of inordinate cupidity, to purposes of individual, and sectional ascendency, he could not be seduced by the captivation of names, or terms, however attractive, to lend it his individual support.

"It is in vain, Mr. President, said he, that it is called the American System—names do not alter things. There is but one American System, and that is delineated in the State and Federal constitutions. It is the system of equal rights and privileges secured by the representative principle—a system, which, instead of subjecting the proceeds of the labor of some to taxation, in the view to enrich others, secures to all the proceeds of their labor—exempts all from taxation, except for the support of the protecting power of the government. As a tax necessary to the support of the government, he would support it—call it by what name you please;—as a tax for any other purpose, and especially for the purposes to which he had alluded—it had his individual reprobation, under whatever name it might assume.

"It might, he observed, be inferred from what he had said, that he would vote against the bill. He did not wish any doubts to be entertained as to the vote he should give upon this measure, or the reasons which would influence him to give it. He was not at liberty to substitute his individual opinion for that of his State. He was one of the organs here, of a State, that had, by the tariff of 1824, been chained to the car of the Eastern manufacturers—a State that had been from that time, and was now groaning under the pressure of that unequal and unjust measure—a measure from the pressure of which, owing to the prevailing illusion throughout the United States, she saw no hope of escape, by a speedy return to correct principles;—and seeing no hope of escaping from the ills of the system, she is constrained, on principles of self-defence, to avail herself of the mitigation which this bill presents, in the duties which it imposes upon foreign hemp, spirits, iron, and molasses. The hemp, iron, and distilled spirits of the West, will, like the woollens of the Eastern States, be encouraged to the extent of the tax indirectly imposed by this bill, upon those who shall buy and consume them. Those who may need, and buy those articles, must pay to the grower, or manufacturer of them, an increased price to the amount of the duties imposed upon the like articles of foreign growth or fabric. To this tax upon the labor of the consumer, his individual opinion was opposed. But, as the organ of the State of Kentucky, he felt himself bound to surrender his individual opinion, and express the opinion of his State."

Thus, this tariff bill, like every one admitting a variety of items, contains a vicious principle, by which a majority may be made up to pass a measure which they do not approve. But besides variety of agricultural and manufacturing items collected into this bill, there was another of very different import admitted into it, namely, that of party politics. A presidential election was approaching: General Jackson and Mr. Adams were the candidates—the latter in favor of the "American System"—of which Mr. Clay (his Secretary of State) was the champion, and indissolubly connected with him in the public

mind in the issue of the election. This tariff was made an administration measure, and became an issue in the canvass; and to this Mr. Rowan significantly alluded when he spoke of a tariff as being "perverted by the ambition of political aspirants." It was in vain that the manufacturers were warned not to mix their interests with the doubtful game of politics. They yielded to the temptation—yielded as a class, though with individual exceptions—for the sake of the temporary benefit, without seeming to realize the danger of connecting their interests with the fortunes of a political party. This tariff of '28, besides being remarkable for giving birth to "nullification," and heart-burning between the North and the South, was also remarkable for a change of policy in the New England States, in relation to the protective system. Being strongly commercial, these States had hitherto favored free trade; and Mr. Webster was the champion of that trade up to 1824. At this session a majority of those States, and especially those which classed politically with Mr. Adams and Mr. Clay, changed their policy: and Webster became a champion of the protective system. The cause of this change, as then alleged, was the fact that the protective system had become the established policy of the government, and that these States had adapted their industry to it; though it was insisted, on the other hand, that political calculation had more to do with the change than federal legislation: and, in fact, the question of this protection was one of those which lay at the foundation of parties, and was advocated by General Hamilton in one of his celebrated reports of fifty years ago. But on this point it is right that New England should speak for herself, which she did at the time of the discussion of the tariff in '28; and through the member, now a senator (Mr. Webster), who typified in his own person the change which his section of the Union had undergone. He said:

"New England, sir, has not been a leader in this policy. On the contrary, she held back, herself, and tried to hold others back from it, from the adoption of the constitution to 1824. Up to 1824, she was accused of sinister and selfish designs, because she discountenanced the progress of this policy. It was laid to her charge, then, that having established her manufactures herself, she wished that others should not have the power of rivalling her; and, for that reason, opposed all legislative encouragement. Under this angry denunciation against her, the act of 1824 passed. Now the imputation is precisely of an opposite character. The present measure is pronounced to be exclusively for the benefit of New England; to be brought forward by her agency, and designed to gratify the cupidity of her wealthy establishments.

"Both charges, sir, are equally without the slightest foundation. The opinion of New England, up to 1824, was founded in the conviction, that, on the whole, it was wisest and best, both for herself and others, that manufacturers should make haste slowly. She felt a reluctance to trust great interests on the foundation of government patronage; for who could tell how long such patronage would last, or with what steadiness, skill, or perseverance, it would continue to be granted? It is now nearly fifteen years, since, among the first things which I ever ventured to say here, was the expression of a serious doubt, whether this government was fitted by its construction, to administer aid and protection to particular pursuits; whether, having called such pursuits into being by indications of its favor, it would not, afterwards, desert them, when troubles come upon them; and leave them to their fate. Whether this prediction, the result, certainly, of chance, and not of sagacity, will so soon be fulfilled, remains to be seen.

"At the same time it is true, that from the very first commencement of the government, those who have administered its concerns have held a tone of encouragement and invitation towards those who should embark in manufactures. All the Presidents, I believe, without exception, have concurred in this general sentiment; and the very first act of Congress, laying duties of impost, adopted the then unusual expedient of a preamble, apparently for little other purpose than that of declaring, that the duties, which it imposed, were imposed for the encouragement and protection of manufactures. When, at the commencement of the late war, duties were doubled, we were told that we should find a mitigation of the weight of taxation in the new aid and succor which would be thus afforded to our own manufacturing labor. Like arguments were urged, and prevailed, but not by the aid of New England votes, when the tariff was afterwards arranged at the close of the war, in 1816. Finally, after a whole winter's deliberation, the act of 1824 received the sanction of both Houses of Congress, and settled the policy of the country. What, then, was New England to do? She was fitted for manufacturing operations, by the amount and character of her population, by her capital, by the vigor and energy of her free labor, by the skill, economy, enterprise, and perseverance of her people. I repeat, what was she, under these circumstances, to do? A great and prosperous rival in her near neighborhood, threatening to draw from her a part, perhaps a great part, of her foreign commerce; was she to use, or to neglect, those other means of seeking her own prosperity which belonged to her character and her condition? Was she to hold out, for

ever, against the course of the government, and see herself losing, on one side, and yet making no efforts to sustain herself on the other? No, sir. Nothing was left to New England, after the act of 1824, but to conform herself to the will of others. Nothing was left to her, but to consider that the government had fixed and determined its own policy; and that policy was protection."

The question of a protective tariff had now not only become political, but sectional. In the early years of the federal government it was not so. The tariff bills, as the first and the second that were passed, declared in their preambles that they were for the encouragement of manufactures, as well as for raising revenue; but then the duties imposed were all moderate—such as a revenue system really required; and there were no "*minimums*," to make a false basis for the calculation of duties, by enacting that all which cost less than a certain amount should be counted to have cost that amount; and be rated at the custom-house accordingly. In this early period the Southern States were as ready as any part of the Union in extending the protection to home industry which resulted from the imposition of revenue duties on rival imported articles, and on articles necessary to ourselves in time of war; and some of her statesmen were amongst the foremost members of Congress in promoting that policy. As late as 1816, some of her statesmen were still in favor of protection, not merely as an incident to revenue, but as a substantive object: and among these was Mr. Calhoun, of South Carolina—who even advocated the minimum provision—then for the first time introduced into a tariff bill, and upon his motion—and applied to the cotton goods imported. After that year (1816) the tariff bills took a sectional aspect—the Southern States, with the exception of Louisiana (led by her sugar-planting interest), against them: the New England States also against them: the Middle and Western States for them. After 1824 the New England States (always meaning the greatest portion when a section is spoken of) classed with the protective States—leaving the South alone, as a section, against that policy. My personal position was that of a great many others in the three protective sections—opposed to the policy, but going with it, on account of the interest of the State in the protection of some of its productions. I moved an additional duty upon lead, equal to one hundred per centum; and it was carried. I moved a duty upon indigo, a former staple of the South, but now declined to a slight production; and I proposed a rate of duty in harmony with the protective features of the bill. No southern member would move that duty, because he opposed the principle: I moved it, that the "American System," as it was called, should work alike in all parts of our America. I supported the motion with some reasons, and some views of the former cultivation of that plant in the Southern States, and its present decline, thus:

"Mr. Benton then proposed an amendment, to impose a duty of 25 cents per pound on imported indigo, with a progressive increase at the rate of 25 cents per pound per annum, until the whole duty amounted to $1 per pound. He stated his object to be two-fold in proposing this duty, first, to place the American System beyond the reach of its enemies, by procuring a home supply of an article indispensable to its existence; and next, to benefit the South by reviving the cultivation of one of its ancient and valuable staples.

Indigo was first planted in the Carolinas and Georgia about the year 1740, and succeeded so well as to command the attention of the British manufacturers and the British parliament. An act was passed for the encouragement of its production in these colonies, in the reign of George the Second; the preamble to which Mr. B. read, and recommended to the consideration of the Senate. It recited that a regular, ample, and certain supply of indigo was indispensable to the success of British manufacturers; that these manufacturers were then dependent upon foreigners for a supply of this article; and that it was the dictate of a wise policy to encourage the production of it at home. The act then went on to direct that a premium of sixpence sterling should be paid out of the British treasury for every pound of indigo imported into Great Britain, from the Carolinas and Georgia. Under the fostering influence of this bounty, said Mr. B., the cultivation of indigo became great and extensive. In six years after the passage of the act, the export was 217,000 lbs. and at the breaking out of the Revolution it amounted to 1,100,000 lbs. The Southern colonies became rich upon it; for the cultivation of cotton was then unknown; rice and indigo were the staples of the South. After the Revolution, and especially after the great territorial acquisitions which the British made in India, the cultivation of American indigo declined. The premium was no longer paid; and the British government, actuated by the same wise policy which made them look for a home supply of this article from the Carolinas, when they were a part of the British possessions, now looked to India for the same reason. The export of American indigo rapidly declined. In 1800 it had fallen to 400,000 lbs.; in 1814 to 40,000 lbs,; and in the

last few years to 6 or 8,000 lbs. In the mean time our manufactories were growing up; and having no supply of indigo at home, they had to import from abroad. In 1826 this importation amounted to 1,150,000 lbs., costing a fraction less than two millions of dollars, and had to be paid for almost entirely in ready money, as it was chiefly obtained from places where American produce was in no demand. Upon this state of facts, Mr. B. conceived it to be the part of a wise and prudent policy to follow the example of the British parliament in the reign of George II. and provide a home supply of this indispensable article. Our manufacturers now paid a high price for fine indigo, no less than $2 50 per pound, as testified by one of themselves before the Committee on Manufactures raised in the House of Representatives. The duty which he proposed was only 40 per cent. upon that value, and would not even reach that rate for four years. It was less than one half the duty which the same bill proposed to lay instanter upon the very cloth which this indigo was intended to dye. In the end it would make all indigo come cheaper to the manufacturer, as the home supply would soon be equal, if not superior to the demand; and in the mean time, it could not be considered a tax on the manufacturer, as he would levy the advance which he had to pay, with a good interest, upon the wearer of the cloth.

"Mr. B. then went into an exposition of the reasons for encouraging the home production of indigo, and showed that the life of the American System depended upon it. Neither cotton nor woollen manufactures could be carried on without indigo. The consumption of that article was prodigious. Even now, in the infant state of our manufactories, the importation was worth two millions of dollars: and must soon be worth double or treble that sum. For this great supply of an indispensable article, we were chiefly indebted to the jealous rival, and vigilant enemy, of these very manufactures, to Great Britain herself. Of the 1,150,000 lbs. of indigo imported, we bring 620,000 lbs. from the British East Indies; which one word from the British government would stop for ever; we bring the further quantity of 120,000 lbs. from Manilla, a Spanish possession, which British influence and diplomacy could immediately stop: and the remainder came from different parts of South America, and might be taken from us by the arts of diplomacy, or by a monopoly of the whole on the part of our rival. A stoppage of a supply of indigo for one year, would prostrate all our manufactories, and give them a blow from which they would not recover in many years. Great Britain could effect this stoppage to the amount of three fourths of the whole quantity by speaking a single word, and of the remainder by a slight exertion of policy, or the expenditure of a sum sufficient to monopolize for one year, the purchase of what South America sent into the market.

"Mr. B. said he expected a unanimous vote in favor of his amendment. The North should vote for it to secure the life of the American System; to give a proof of their regard for the South; to show that the country south of the Potomac is included in the bill for some other purpose besides that of oppression. The South itself, although opposed to the further increase of duties, should vote for this duty; that the bill, if it passes, may contain one provision favorable to its interests. The West should vote for it through gratitude for fifty years of guardian protection, generous defence, and kind assistance, which the South had given it under all its trials; and for the purpose of enlarging the market, increasing the demand in the South and its ability to purchase the horses, mules, and provisions which the West can sell nowhere else. For himself he had personal reasons for wishing to do this little justice to the South. He was a native of one of these States (N. Carolina)—the bones of his father and his grandfathers rested there. Her Senators and Representatives were his early and his hereditary friends. The venerable Senator before him (Mr. Macon) had been the friend of him and his, through four generations in a straight line; the other Senator (Mr. Branch) was his schoolfellow: the other branch of the legislature, the House of Representatives, also showed him in the North Carolina delegation, the friends of him and his through successive generations. Nor was this all. He felt for the sad changes which had taken place in the South in the last fifty years. Before the Revolution it was the seat of wealth as well as of hospitality. Money, and all that it commanded, abounded there. But how now? All this is reversed.

"Wealth has fled from the South, and settled in the regions north of the Potomac, and this in the midst of the fact that the South, in four staples alone, in cotton, tobacco, rice and indigo (while indigo was one of its staples), had exported produce since the Revolution, to the value of eight hundred million of dollars, and the North had exported comparatively nothing. This sum was prodigious; it was nearly equal to half the coinage of the mint of Mexico since the conquest by Cortez. It was twice or thrice the amount of the product of the three thousand gold and silver mines of Mexico, for the same period of fifty years. Such an export would indicate unparalleled wealth; but what was the fact? In place of wealth, a universal pressure for money was felt; not enough for current expenses; the price of all property down; the country drooping and languishing; towns and cities decaying; and the frugal habits of the people pushed to the verge of universal self-denial, for the preservation of their family estates. Such a result is a strange and wonderful phenomenon. It calls upon statesmen to inquire into the cause; and if they inquire upon the theatre of this strange metamorphosis, they will receive one universal answer from all ranks and all ages, that it is federal legislation which has worked this ruin. Under this legislation the exports of the South have been made the basis of the federal revenue. The

twenty odd millions annually levied upon imported goods, are deducted out of the price of their cotton, rice and tobacco, either in the diminished price which they receive for these staples in foreign ports, or in the increased price which they pay for the articles they have to consume at home. Virginia, the two Carolinas and Georgia, may be said to defray three fourths of the annual expense of supporting the federal government; and of this great sum annually furnished by them, nothing, or next to nothing, is returned to them in the shape of government expenditure. That expenditure flows in an opposite direction; it flows northwardly, in one uniform, uninterrupted and perennial stream; it takes the course of trade and of exchange; and this is the reason why wealth disappears from the South and rises up in the North. Federal legislation does all this; it does it by the simple process of eternally taking away from the South, and returning nothing to it. If it returned to the South the whole, or even a good part of what it exacted, the four States south of the Potomac might stand the action of this system, as the earth is enabled to stand the exhausting influence of the sun's daily heat by the refreshing dews which are returned to it at night; but as the earth is dried up, and all vegetation destroyed in regions where the heat is great, and no dews returned, so must the South be exhausted of its money and its property by a course of legislation which is for ever taking from it, and never returning any thing to it.

"Every new tariff increases the force of this action. No tariff has ever yet included Virginia, the two Carolinas, and Georgia, within its provisions, except to increase the burdens imposed upon them. This one alone, presents the opportunity to form an exception, by reviving and restoring the cultivation of one of its ancient staples,—one of the sources of its wealth before the Revolution. The tariff of 1828 owes this reparation to the South, because the tariff of 1816 contributed to destroy the cultivation of indigo; sunk the duty on the foreign article, from twenty-five to fifteen cents per pound. These are the reasons for imposing the duty on indigo, now proposed. What objections can possibly be raised to it? Not to the quality; for it is the same which laid the foundation of the British manufactures, and sustained their reputation for more than half a century; not to the quantity; for the two Carolinas and Georgia alone raised as much fifty years ago as we now import, and we have now the States of Louisiana, Alabama, and Mississippi, and the Territories of Florida and Arkansas, to add to the countries which produce it; not to the amount of the duty; for its maximum will be but forty per cent., only one half of the duty laid by this bill on the cloth it is to dye; and that maximum, not immediate, but attained by slow degrees at the end of four years, in order to give time for the domestic article to supply the place of the imported. And after all, it is not a duty on the manufacturer, but on the wearer of the goods; from whom he levies, with a good interest on the price of the cloths, all that he expends in the purchase of materials. For once, said Mr. B., I expect a unanimous vote on a clause in the tariff. This indigo clause must have the singular and unprecedented honor of an unanimous voice in its favor. The South must vote for it, to revive the cultivation of one of its most ancient and valuable staples; the West must vote for it through gratitude for past favors—through gratitude for the vote on hemp this night*—and to save, enlarge, and increase the market for its own productions; the North must vote for it to show their disinterestedness; to give one proof of just feeling towards the South; and, above all, to save their favorite American System from the deadly blow which Great Britain can at any moment give it by stopping or interrupting the supplies of foreign indigo; and the whole Union, the entire legislative body, must vote for it, and vote for it with joy and enthusiasm, because it is impossible that Americans can deny to sister States of the Confederacy what a British King and a British Parliament granted to these same States when they were colonies and dependencies of the British crown."

Mr. Hayne, of South Carolina, seconded my motion in a speech of which this is an extract:

"Mr. Hayne said he was opposed to this bill in its principles as well as in its details. It could assume no shape which would make it acceptable to him, or which could prevent it from operating most oppressively and unjustly on his constituents. With these views, he had determined to make no motion to amend the bill in any respect whatever; but when such motions were made by others, and he was compelled to vote on them, he knew no better rule than to endeavor to make the bill consistent with itself. On this principle he had acted in all the votes he had given on this bill. He had endeavored to carry out to its legitimate consequences what gentlemen are pleased to miscall the 'American System.' With a fixed resolution to vote against the bill, he still considered himself at liberty to assist in so arranging the details as to extend to every great interest, and to all portions of the country, as far as may be practicable, equal protection, and to distribute the burdens of the system equally, in order that its benefits as well as its evils may be fully tested. On this principle, he should vote for the amendment of the gentleman from Missouri, because it was in strict conformity with all the principles of the bill. As a southern man, he would ask no boon for the South—he should propose nothing; but he must say that the protection of indigo rested on the same principles as every other article proposed

* "The vote on hemp this night." In rejecting Mr. Webster's motion to strike out the duty on hemp, and a vote in which the South went unanimously with the West.—*Note by Mr. B.*

to be protected by this bill, and he did not see how gentlemen could, consistently with their maxims, vote against it. What was the principle on which this bill was professedly founded? If there was any principle at all in the bill, it was that, whenever the country had the capacity to produce an article with which any imported article could enter into competition, the domestic product was to be protected by a duty. Now, had the Southern States the capacity to produce indigo? The soil and climate of those States were well suited to the culture of the article. At the commencement of the Revolution our exports of the article amounted to no less than 1,100,000 lbs. The whole quantity now imported into the United States is only 1,150,000 lbs.; so that the capacity of the country to produce a sufficient quantity of indigo to supply the wants of the manufacturers is unquestionable. It is true that the quantity now produced in the country is not great.

"In 1818 only 700 lbs. of domestic indigo were exported.

"In 1825	9,955	do.
"In 1826	5,289	do.

"This proves that the attention of the country is now directed to the subject. The senator from Indiana, in some remarks which he made on this subject yesterday, stated that, according to the principles of the American System (so called), protection was not extended to any article which the country was not in the habit of exporting. This is entirely a mistake. Of the articles protected by the tariff of 1824, as well as those included in this bill, very few are exported at all. Among these are iron, woollens, hemp, flax, and several others. If indigo is to be protected at all, the duties proposed must surely be considered extremely reasonable, the maximum proposed being much below that imposed by this bill on wool, woollens, and other articles. The duty on indigo till 1816, was 25 cents per pound. It was then (in favor of the manufacturers) reduced to 15 cents. The first increase of duty proposed here, is only to put back the old duty of 25 cents per pound, equal to an ad valorem duty of from 10 to 15 per cent.—and the maximum is only from 40 to 58 per cent. ad valorem, and that will not accrue for several years to come. With this statement of facts, Mr. H. said he would leave the question in the hands of those gentlemen who were engaged in giving this bill the form in which it is to be submitted to the final decision of the Senate."

The proposition for this duty on imported indigo did not prevail. In lieu of the amount proposed, and which was less than any protective duty in the bill, the friends of the "American System" (constituting a majority of the Senate) substituted a nominal duty of five cents on the pound —to be increased five cents annually for ten years—and to remain at fifty. This was only about twenty per centum on the cost of the article, and that only to be attained after a progression of ten years; while all other duties in the bill were from four to ten times that amount —and to take effect immediately. A duty so contemptible, so out of proportion to the other provisions of the bill, and doled out in such miserable drops, was a mockery and insult; and so viewed by the southern members. It increased the odiousness of the bill, by showing that the southern section of the Union was only included in the "American System" for its burdens, and not for its benefits. Mr. McDuffie, in the House of Representatives, inveighed bitterly against it, and spoke the general feeling of the Southern States when he said:

"Sir, if the union of these States shall ever be severed, and their liberties subverted, the historian who records these disasters will have to ascribe them to measures of this description. I do sincerely believe that neither this government nor any free government, can exist for a quarter of a century, under such a system of legislation. Its inevitable tendency is to corrupt, not only the public functionaries, but all those portions of the Union and classes of society who have an interest, real or imaginary, in the bounties it provides, by taxing other sections and other classes. What, sir, is the essential characteristic of a freeman? It is that independence which results from an habitual reliance upon his own resources and his own labor for his support. He is not in fact a freeman, who habitually looks to the government for pecuniary bounties. And I confess that nothing in the conduct of those who are the prominent advocates of this system, has excited more apprehension and alarm in my mind, than the constant efforts made by all of them, from the Secretary of the Treasury down to the humblest coadjutor, to impress upon the public mind, the idea that national prosperity and individual wealth are to be derived, not from individual industry and economy, but from government bounties. An idea more fatal to liberty could not be inculcated. I said, on another occasion, that the days of Roman liberty were numbered when the people consented to receive bread from the public granaries. From that moment it was not the patriot who had shown the greatest capacity and made the greatest sacrifices to serve the republic, but the demagogue who would promise to distribute most profusely the spoils of the plundered provinces, that was elevated to office by a degenerate and mercenary populace. Every thing became venal, even in the country of Fabricius, until finally the empire itself was sold at public auction! And what, sir, is the nature and tendency of the system we are discussing? It bears an analogy, but too lamentably striking, to that which corrupted the republican purity of the

Roman people. God forbid that it should consummate its triumph over the public liberty, by a similar catastrophe, though even that is an event by no means improbable, if we continue to legislate periodically in this way, and to connect the election of our Chief Magistrate with the question of dividing out the spoils of certain States—degraded into Roman provinces—among the influential capitalists of the other States of this Union! Sir, when I consider that, by a single act like the present, from five to ten millions of dollars may be transferred annually from one part of the community to another; when I consider the disguise of disinterested patriotism under which the basest and most profligate ambition may perpetrate such an act of injustice and political prostitution, I cannot hesitate, for a moment, to pronounce this very system of indirect bounties, the most stupendous instrument of corruption ever placed in the hands of public functionaries. It brings ambition and avarice and wealth into a combination, which it is fearful to contemplate, because it is almost impossible to resist. Do we not perceive, at this very moment, the extraordinary and melancholy spectacle of less than one hundred thousand capitalists, by means of this unhallowed combination, exercising an absolute and despotic control over the opinions of eight millions of free citizens, and the fortunes and destinies of ten millions? Sir, I will not anticipate or forebode evil. I will not permit myself to believe that the Presidency of the United States will ever be bought and sold, by this system of bounties and prohibitions. But I must say that there are certain quarters of this Union in which, if a candidate for the Presidency were to come forward with the Harrisburg tariff in his hand, nothing could resist his pretensions, if his adversary were opposed to this unjust system of oppression. Yes, sir, that bill would be a talisman which would give a charmed existence to the candidate who would pledge himself to support it. And although he were covered with all the "multiplying villanies of nature," the most immaculate patriot and profound statesman in the nation could hold no competition with him, if he should refuse to grant this new species of imperial donative."

Allusions were constantly made to the combination of manufacturing capitalists and politicians in pressing this bill. There was evidently foundation for the imputation. The scheme of it had been conceived in a convention of manufacturers in the State of Pennsylvania, and had been taken up by politicians, and was pushed as a party measure, and with the visible purpose of influencing the presidential election. In fact these tariff bills, each exceeding the other in its degree of protection, had become a regular appendage of our presidential elections—coming round in every cycle of four years, with that returning event. The year 1816 was the starting point: 1820, and 1824, and now 1828, having successively renewed the measure, with successive augmentations of duties. The South believed itself impoverished to enrich the North by this system; and certainly a singular and unexpected result had been seen in these two sections. In the colonial state, the Southern were the rich part of the colonies, and expected to do well in a state of independence. They had the exports, and felt secure of their prosperity: not so of the North, whose agricultural resources were few, and who expected privations from the loss of British favor. But in the first half century after Independence this expectation was reversed. The wealth of the North was enormously aggrandized: that of the South had declined. Northern towns had become great cities: Southern cities had decayed, or become stationary; and Charleston, the principal port of the South, was less considerable than before the Revolution. The North became a money-lender to the South, and southern citizens made pilgrimages to northern cities, to raise money upon the hypothecation of their patrimonial estates. And this in the face of a southern export since the Revolution to the value of eight hundred millions of dollars!—a sum equal to the product of the Mexican mines since the days of Cortez! and twice or thrice the amount of their product in the same fifty years. The Southern States attributed this result to the action of the federal government—its double action of levying revenue upon the industry of one section of the Union and expending it in another—and especially to its protective tariffs. To some degree this attribution was just, but not to the degree assumed; which is evident from the fact that the protective system had then only been in force for a short time—since the year 1816; and the reversed condition of the two sections of the Union had commenced before that time. Other causes must have had some effect: but for the present we look to the protective system; and, without admitting it to have done all the mischief of which the South complained, it had yet done enough to cause it to be condemned by every friend to equal justice among the States—by every friend to the harmony and stability of the Union—by all who detested sectional legislation—by every enemy to the mischievous combination of partisan politics with national legislation.

And this was the feeling with the mass of the democratic members who voted for the tariff of 1828, and who were determined to act upon that feeling upon the overthrow of the political party which advocated the protective system; and which overthrow they believed to be certain at the ensuing presidential election.

CHAPTER XXXV.

THE PUBLIC LANDS—THEIR PROPER DISPOSITION—GRADUATED PRICES—PRE-EMPTION RIGHTS—DONATIONS TO SETTLERS.

About the year 1785 the celebrated Edmund Burke brought a bill into the British House of Commons for the sale of the crown lands, in which he laid down principles in political economy, in relation to such property, profoundly sagacious in themselves, applicable to all sovereign landed possessions, whether of kings or republics—applicable in all countries—and nowhere more applicable and less known or observed, than in the United States. In the course of the speech in support of his bill he said:

"Lands sell at the current rate, and nothing can sell for more. But be the price what it may, a great object is always answered, whenever any property is transferred from hands which are not fit for that property, to those that are. The buyer and the seller must mutually profit by such a bargain; and, what rarely happens in matters of revenue, the relief of the subject will go hand in hand with the profit of the Exchequer. * * * The revenue to be derived from the sale of the forest lands will not be so considerable as many have imagined; and I conceive it would be unwise to screw it up to the utmost, or even to suffer bidders to enhance, according to their eagerness, the purchase of objects, wherein the expense of that purchase may weaken the capital to be employed in their cultivation. * * * The principal revenue which I propose to draw from these uncultivated wastes, is to spring from the improvement and population of the kingdom; events infinitely more advantageous to the revenues of the crown than the rents of the best landed estate which it can hold. * * * It is thus I would dispose of the unprofitable landed estates of the crown: *throw them into the mass of private property:* by which they will come, through the course of circulation and through the political secretions of the State into well-regulated revenue. * * * Thus would fall an expensive agency, with all the influence which attends it."

I do not know how old, or rather, how young I was, when I first took up the notion that sales of land by a government to its own citizens, and to the highest bidder, was false policy; and that gratuitous grants to actual settlers was the true policy, and their labor the true way of extracting national wealth and strength from the soil. It might have been in childhood, when reading the Bible, and seeing the division of the promised land among the children of Israel: it might have been later, and in learning the operation of the feudal system in giving lands to those who would defend them: it might have been in early life in Tennessee, in seeing the fortunes and respectability of many families derived from the 640 acre head-rights which the State of North Carolina had bestowed upon the first settlers. It was certainly before I had read the speech of Burke from which the extract above is taken; for I did not see that speech until 1826; and seventeen years before that time, when a very young member of the General Assembly of Tennessee, I was fully imbued with the doctrine of donations to settlers, and acted upon the principle that was in me, as far as the case admitted, in advocating the pre-emption claims of the settlers on Big and Little Pigeon, French Broad, and Nolichucky. And when I came to the then Territory of Missouri in 1815, and saw land exposed to sale to the highest bidder, and lead mines and salt springs reserved from sale, and rented out for the profit of the federal treasury, I felt repugnance to the whole system, and determined to make war upon it whenever I should have the power. The time came round with my election to the Senate of the United States in 1820: and the years 1824, '26, and '28, found me doing battle for an ameliorated system of disposing of our public lands; and with some success. The pre-emption system was established, though at first the pre-emption claimant was stigmatized as a trespasser, and repulsed as a criminal; the reserved lead mines and salt springs, in the State of Missouri, were brought into market, like other lands; iron ore lands, intended to have been withheld from sale, were rescued from that fate, and brought into market. Still the two repulsive features of the federal land system—sales to the highest bidder, and donations to no one—with an arbitrary minimum

price which placed the cost of all lands, good and bad, at the same uniform rate (after the auctions were over), at one dollar twenty-five cents per acre. I resolved to move against the whole system, and especially in favor of graduated prices, and donations to actual and destitute settlers. I did so in a bill, renewed annually for a long time; and in speeches which had more effect upon the public mind than upon the federal legislation—counteracted as my plan was by schemes of dividing the public lands, or the money arising from their sale, among the States. It was in support of one of these bills that I produced the authority of Burke in the extract quoted; and no one took its spirit and letter more promptly and entirely than President Jackson. He adopted the principle fully, and in one of his annual messages to Congress recommended that, as soon as the public (revolutionary) debt should be discharged (to the payment of which the lands ceded by the States were pledged), that they should CEASE TO BE A SUBJECT OF REVENUE, AND BE DISPOSED OF CHIEFLY WITH A VIEW TO SETTLEMENT AND CULTIVATION. His terms of service expired soon after the extinction of the debt, so that he had not an opportunity to carry out his wise and beneficent design.

Mr. Burke considered the revenue derived from the sale of crown lands as a trifle, and of no account, compared to the amount of revenue derivable from the same lands through their settlement and cultivation. He was profoundly right! and provably so, both upon reason and experience. The sale of the land is a single operation. Some money is received, and the cultivation is disabled to that extent from its improvement and cultivation. The cultivation is perennial, and the improved condition of the farmer enables him to pay taxes, and consume dutiable goods, and to sell the products which command the imports which pay duties to the government, and this is the "well-regulated revenue" which comes through the course of circulation, and through the "political secretions" of the State, and which Mr. Burke commends above all revenue derived from the sale of lands. Does any one know the comparative amount of revenue derived respectively from the sales and from the cultivation of lands in any one of our new States where the federal government was the proprietor, and the auctioneerer, of the lands? and can he tell which mode of raising money has been most productive? Take Alabama, for example. How much has the treasury received for lands sold within her limits? and how much in duties paid on imports purchased with the exports derived from her soil? Perfect exactitude cannot be attained in the answer, but exact enough to know that the latter already exceeds the former several times, ten times over; and is perennial and increasing for ever! while the sale of the land has been a single operation, performed once, and not to be repeated; and disabling the cultivator by the loss of the money it took from him. Taken on a large scale, and applied to the whole United States, and the answer becomes more definite—but still not entirely exact. The whole annual receipts from land sales at this time (1850) are about two millions of dollars: the annual receipts from customs, founded almost entirely upon the direct or indirect productions of the earth, exceed fifty millions of dollars! giving a comparative difference of twenty-five to one for cultivation over sales; and triumphantly sustaining Mr. Burke's theory. I have looked into the respective amounts of federal revenue, received into the treasury from these two sources, since the establishment of the federal government; and find the customs to have yielded, in that time, a fraction over one thousand millions of dollars net—the lands to have yielded a little less than one hundred and thirty millions gross, not forty millions clear after paying all expenses of surveys, sales and management. This is a difference of twenty-five to one—with the further difference of endless future production from one, and no future production from the land once sold; that is to say, the same acre of land is paying for ever through cultivation, and pays but once for itself in purchase.

Thus far I have considered Mr. Burke's theory only under one of its aspects—the revenue aspect: he presents another—that of population—and here all measure of comparison ceases. The sale of land brings no people: cultivation produces population: and people are the true wealth and strength of nations. These various views were presented, and often enforced, in the course of the several speeches which I made in support of my graduation and donation bills: and, on the point of population, and of freeholders, against tenants, I gave utterance to these sentiments:

"Tenantry is unfavorable to freedom. It lays

the foundation for separate orders in society, annihilates the love of country, and weakens the spirit of independence. The farming tenant has, in fact, no country, no hearth, no domestic altar, no household god. The freeholder, on the contrary, is the natural supporter of a free government; and it should be the policy of republics to multiply their freeholders, as it is the policy of monarchies to multiply tenants. We are a republic, and we wish to continue so: then multiply the class of freeholders; pass the public lands cheaply and easily into the hands of the people; sell, for a reasonable price, to those who are able to pay; and give, without price, to those who are not. I say give, without price, to those who are not able to pay; and that which is so given, I consider as sold for the best of prices; for a price above gold and silver; a price which cannot be carried away by delinquent officers, nor lost in failing banks, nor stolen by thieves, nor squandered by an improvident and extravagant administration. It brings a price above rubies—a race of virtuous and independent laborers, the true supporters of their country, and the stock from which its best defenders must be drawn.

"'What constitutes a State?
Not high-rais'd battlements, nor labored mound,
Thick wall, nor moated gate;
Nor cities proud, with spires and turrets crown'd,
Nor starr'd and spangled courts,
Where low-born baseness wafts perfume to pride:
But MEN! high-minded men,
Who their *duties* know, but know their RIGHTS,
And, knowing, *dare* maintain them.'"

In favor of low prices, and donations, I quoted the example and condition of the Atlantic States of this Union—all settled under liberal systems of land distribution which dispensed almost (or altogether in many instances) with sales for money. I said:

"These Atlantic States were donations from the British crown; and the great proprietors distributed out their possessions with a free and generous hand. A few shillings for a hundred acres, a nominal quitrent, and gifts of a hundred, five hundred, and a thousand acres, to actual settlers: such were the terms on which they dealt out the soil which is now covered by a nation of freemen. Provinces, which now form sovereign States, were sold from hand to hand, for a less sum than the federal government now demands for an area of two miles square. I could name instances. I could name the State of Maine—a name, for more reasons than one, familiar and agreeable to Missouri, and whose pristine territory was sold by Sir Ferdinando Gorges to the proprietors of the Massachusetts Bay, for twelve hundred pounds, provincial money. And well it was for Maine that she was so sold; well it was for her that the modern policy of waiting for the rise, and sticking at a *minimum* of $1 25, was not then in vogue, or else Maine would have been a desert now. Instead of a numerous, intelligent, and virtuous population, we should have had trees and wild beasts. My respectable friend, the senator from that State (Gen. Chandler), would not have been here to watch so steadily the interest of the public, and to oppose the bills which I bring in for the relief of the land claimants. And I mention this to have an opportunity to do justice to the integrity of his heart, and to the soundness of his understanding—qualities in which he is excelled by no senator—and to express my belief that we will come together upon the final passage of this bill: for the cardinal points in our policy are the same—economy in the public expenditures, and the prompt extinction of the public debt. I say, well it was for Maine that she was sold for the federal price of four sections of Alabama pine, Louisiana swamp, or Missouri prairie. Well it was for every State in this Union, that their soil was sold for a song, or given as a gift to whomsoever would take it. Happy for them, and for the liberty of the human race, that the kings of England and the "Lords Proprietors," did not conceive the luminous idea of waiting for the rise, and sticking to a *minimum* of $1 25 per acre. Happy for Kentucky, Tennessee, and Ohio, that they were settled under *States*, and not under the federal government. To this happy exemption they owe their present greatness and prosperity. When they were settled, the State laws prevailed in the acquisition of lands; and donations, pre-emptions, and settlement rights, and sales at two cents the acre, were the order of the day. I include Ohio, and I do it with a knowledge of what I say: for ten millions of her soil,—that which now constitutes her chief wealth and strength,—were settled upon the liberal principles which I mention. The federal system only fell upon fifteen millions of her soil; and, of that quantity, the one half now lies waste and useless, paying no tax to the State, yielding nothing to agriculture, desert spots in the midst of a smiling garden, "waiting for the rise," and exhibiting, in high and bold relief, the miserable folly of prescribing an arbitrary *minimum* upon that article which is the gift of God to man, and which no parental government has ever attempted to convert into a source of revenue and an article of merchandise."

Against the policy of holding up refuse lands until they should rise to the price of good land, and against the reservation of saline and mineral lands, and making money by boiling salt water, and digging lead ore, or holding a body of tenantry to boil and dig, I delivered these sentiments:

"I do trust and believe, Mr. President, that the Executive of this free government will not be second to George the Third in patriotism, nor an American Congress prove itself inferior to a

British Parliament in political wisdom. I do trust and believe that this whole system of holding up land for the rise, endeavoring to make revenue out of the soil of the country, leasing and renting lead mines, salt springs, and iron banks, with all its train of penal laws and civil and military agents, will be condemned and abolished. I trust that the President himself will give the subject a place in his next message, and lend the aid of his recommendation to the success of so great an object. The mining operations, especially, should fix the attention of the Congress. They are a reproach to the age in which we live. National mining is condemned by every dictate of prudence, by every maxim of political economy, and by the voice of experience in every age and country. And yet we are engaged in that business. This splendid federal government, created for great *national* purposes, has gone to work among the lead mines of Upper Louisiana, to give us a second edition, no doubt, of the celebrated "*Mississippi Scheme*" of John Law. For that scheme was nothing more nor less than a project of making money out of the same identical mines. Yes, Mr. President, upon the same identical theatre, among the same holes and pits, dug by *John Law's* men in 1720; among the cinders, ashes, broken picks, and mouldering furnaces, of that celebrated projector, is our federal government now at work; and, that no circumstance should be wanting to complete the folly of such an undertaking, the task of extracting "*revenue*" from these operations, is confided, not to the *Treasury*, but to the *War* Department.

"Salines and salt springs are subjected to the same system—reserved from sale, and leased for the purpose of raising revenue. But I flatter myself that I see the end of this branch of the system. The debate which took place a few weeks ago on the bill to repeal the existing duty upon salt, is every word of it applicable to the bill which I have introduced for the sale of the reserved salt springs. I claim the benefit of it accordingly, and shall expect the support of all the advocates for the repeal of that tax, whenever the bill for the sale of the salines shall be put to the vote."

Argument and sarcasm had their effect, in relation to the mineral and saline reserves in the State in which I lived—the State of Missouri. An act was passed in 1828 to throw them into the mass of private property—to sell them like other public lands. And thus the federal government, in that State, got rid of a degrading and unprofitable pursuit; and the State got citizen freeholders instead of federal tenants; and profitably were developed in the hands of individuals the pursuits of private industry which languished and stagnated in the hands of federal agents and tenants. But it was continued for some time longer (so far as lead ore was concerned) on the Upper Mississippi, and until an argument arrived which commanded the respect of the legislature: it was the argument of profit and loss—an argument which often touches a nerve which is dead to reason. Mr. Polk, in his message to Congress at the session of 1845–'46 (the first of his administration), stated that the expenses of the system during the preceding four years—those of Mr. Tyler's administration—were twenty-six thousand one hundred and eleven dollars, and eleven cents; and the whole amount of rents received during the same period was six thousand three hundred and fifty-four dollars, and seventy-four cents: and recommended the abolition of the whole system, and the sale of the reserved mines; which was done; and thus was completed for the Upper Mississippi what I had done for Missouri near twenty years before.

The advantage of giving land to those who would settle and cultivate it, was illustrated in one of my speeches, by reciting the case of "Granny White"—well known in her time to all the population of Middle Tennessee, and especially to all who travelled south from Nashville, along the great road which crossed the "divide" between the Cumberland and Harpeth-waters, at the evergreen tree which gave name to the gap—the Holly Tree Gap. The aged woman, and her fortunes, were thus introduced into our senatorial debates, and lodged on a page of our parliamentary history, to enlighten, by her incidents, the councils of national legislation:

"At the age of sixty, she had been left a widow, in one of the counties in the tide-water region of North Carolina. Her poverty was so extreme, that when she went to the county court to get a couple of little orphan grandchildren bound to her, the Justices refused to let her have them, because she could not give security to keep them off the parish. This compelled her to emigrate; and she set off with the two little boys, upon a journey of eight or nine hundred miles, to what was then called "*the Cumberland Settlement.*" Arrived in the neighborhood of Nashville, a generous-hearted Irishman (his name deserves to be remembered—Thomas McCrory) let her have a corner of his land, on her own terms,—a nominal price and indefinite credit. It was fifty acres in extent, and comprised the two faces of a pair of confronting hills, whose precipitous declivities lacked a few degrees, and but a few, of mathematical perpendicularity. Mr. B. said he knew it well, for he had seen the old lady's pumpkins propped and sup-

ported with stakes, to prevent their ponderous weight from tearing up the vine, and rolling to the bottom of the hills. There was just room at their base for a road to run between, and not room for a house, to find a level place for its foundation; for which purpose a part of the hill had to be dug away. Yet, from this hopeless beginning, with the advantage of a little piece of ground that was her own, this aged widow, and two little grandchildren, of eight or nine years old, advanced herself to comparative wealth: money, slaves, horses, cattle; and her fields extended into the valley below, and her orphan grandchildren, raised up to honor and independence: these were the fruits of economy and industry, and a noble illustration of the advantage *of giving land to the poor.* But the federal government would have demanded sixty-two dollars and fifty cents for that land, cash in hand; and old Granny White and her grandchildren might have lived in misery and sunk into vice, before the opponents of this bill would have taken less."

I quoted the example of all nations, ancient and modern, republican and monarchical, in favor of giving lands, in parcels suitable to their wants, to meritorious cultivators; and denied that there was an instance upon earth, except that of our own federal government, which made merchandise of land to its citizens—exacted the highest price it could obtain—and refused to suffer the country to be settled until it was paid for. The "promised land" was divided among the children of Israel—the women getting a share where there was no man at the head of the family—as with the daughters of Manasseh. All the Atlantic States, when British colonies, were settled upon gratuitous donations, or nominal sales. Kentucky and Tennessee were chiefly settled in the same way. The two Floridas, and Upper and Lower Louisiana, were gratuitously distributed by the kings of Spain to settlers, in quantities adapted to their means of cultivation —and with the whole vacant domain to select from according to their pleasure. Land is now given to settlers in Canada; and £30,000 sterling, has been voted at a single session of Parliament, to aid emigrants in their removal to these homes, and commencing life upon them. The republic of Colombia now gives 400 acres to a settler: other South American republics give more or less. Quoting these examples, I added:

"Such, Mr. President, is the conduct of the free republics of the South. I say republics: for it is the same in all of them, and it would be tedious and monotonous to repeat their numerous decrees. In fact, throughout the New World, from Hudson's Bay to Cape Horn (with the single exception of these United States), land, the gift of God to man, is also the gift of the government to its citizens. Nor is this wise policy confined to the New World. It prevails even in Asia; and the present age has seen—we ourselves have seen—published in the capital of the European world, the proclamation of the King of Persia, inviting Christians to go to the ancient kingdom of Cyrus, Cambyses and Darius, and there receive gifts of land—first rate, not refuse—with a total exemption from taxes, and the free enjoyment of their religion. Here is the proclamation: listen to it.

The Proclamation.

"'Mirza Mahomed Saul, Ambassador to England, in the name, and by the authority of Abbas Mirza, King of Persia, offers to those who shall emigrate to Persia, gratuitous grants of land, good for the production of wheat, barley, rice, cotton, and fruits,—free from taxes or contributions of any kind, and with the free enjoyment of their religion; THE KING'S OBJECT BEING TO IMPROVE HIS COUNTRY.

"'London, July 8th, 1823.'"

The injustice of holding all lands at one uniform price, waiting for the cultivation of the good land to give value to the poor, and for the poorest to rise to the value of the richest, was shown in a reference to private sales, of all articles; in the whole of which sales the price was graduated to suit different qualities of the same article. The heartless and miserly policy of waiting for government land to be enhanced in value by the neighboring cultivation of private land, was denounced as unjust as well as unwise. The new States of the West were the sufferers by this federal land policy. They were in a different condition from other States. In these others, the local legislatures held the primary disposal of the soil,—so much as remained vacant within their limits,—and being of the same community, made equitable alienations among their constituents. In the new States it was different. The federal government held the primary disposition of the soil; and the majority of Congress (being independent of the people of these States), was less heedful of their wants and wishes. They were as a stepmother, instead of a natural mother: and the federal government being sole purchaser from foreign nations, and sole recipient of Indian cessions, it became the monopolizer of vacant lands in the West: and this monopoly, like all monopolies, resulted in hardships to those upon whom it acted. Few, or none of our public men, had

raised their voice against this hard policy before I came into the national councils. My own was soon raised there against it: and it is certain that a great amelioration has taken place in our federal land policy during my time: and that the sentiment of Congress, and that of the public generally, has become much more liberal in land alienations; and is approximating towards the beneficent systems of the rest of the world. But the members in Congress from the new States should not intermit their exertions, nor vary their policy; and should fix their eyes steadily upon the period of the speedy extinction of the federal title to all the lands within the limits of their respective States;—to be effected by pre-emption rights, by donations, and by the sale (of so much as shall be sold), at graduated prices,—adapted to the different qualities of the tracts, to be estimated according to the time it has remained in market unsold—and by liberal grants to objects of general improvement, both national and territorial.

CHAPTER XXXVI.

CESSION OF A PART OF THE TERRITORY OF ARKANSAS TO THE CHEROKEE INDIANS.

ARKANSAS was an organized territory, and had been so since the year 1819. Her western boundary was established by act of Congress in May 1824 (chiefly by the exertions of her then delegate, Henry W. Conway),—and was an extension of her existing boundary on that side; and for national and State reasons. It was an outside territory—beyond the Mississippi—a frontier both to Mexico (then brought deep into the Valley of the Mississippi by the Florida treaty which gave away Texas), and to the numerous Indian tribes then being removed from the South Atlantic States to the west of the Mississippi. It was, therefore, a point of national policy to make her strong—to make her a first class State,—both for her own sake and that of the Union,—and equal to all the exigencies of her advanced and frontier position. The extension was on the west—the boundaries on the other three sides being fixed and immovable—and added a fertile belt—a parallelogram of forty miles by three hundred along her whole western border—and which was necessary to compensate for the swamp lands in front on the river, and to give to her certain valuable salt springs there existing, and naturally appurtenant to the territory, and essential to its inhabitants. Even with this extension the territory was still deficient in arable land—not as strong as her frontier position required her to be, nor susceptible (on account of swamps and sterile districts) of the population and cultivation which her superficial contents and large boundaries would imply her to be. Territorially, and in mere extent, the western addition was a fourth part of the territory: agriculturally, and in capacity for population, the addition might be equal to half of the whole territory; and its acquisition was celebrated as a most auspicious event for Arkansas at the time that it occurred.

In the month of May, 1828, by a treaty negotiated at Washington by the Secretary at War, Mr. James Barbour, on one side, and the chiefs of the Cherokee nation on the other, this new western boundary for the territory was abolished—the old line re-established: and what had been an addition to the territory of Arkansas, was ceded to the Cherokees. On the ratification of this treaty several questions arose, all raised by myself—some of principle, some of expediency—as, whether a law of Congress could be abolished by an Indian treaty? and whether it was expedient so to reduce, and thus weaken the territory (and future State) of Arkansas? I was opposed to the treaty, and held the negative of both questions, and argued against them with zeal and perseverance. The supremacy of the treaty-making power I held to be confined to subjects within its sphere, and quoted "Jefferson's Manual," to show that that was the sense in which the clause in the constitution was understood. The treaty-making power was supreme; but that supremacy was within its proper orbit, and free from the invasion of the legislative, executive, or judicial department. The proper objects of treaties were international interests, which neither party could regulate by municipal law, and which required a joint consent, and a double execution, to give it effect. Tried by this test, and this Indian treaty lost its supremacy. The subject was one of ordinary legislation, and specially and exclusively confined to Congress. It was to repeal a law which

Congress had made in relation to territory; and to reverse the disposition which Congress had made of a part of its territory. To Congress it belonged to dispose of territory; and to her it belonged to repeal her own laws. The treaty avoided the word "repeal," while doing the thing: it used the word "abolish"—which was the same in effect, and more arrogant and offensive—not appropriate to legislation, and evidently used to avoid the use of a word which would challenge objection. If the word "repeal" had been used, every one would have felt that the ordinary legislation of Congress was flagrantly invaded; and the avoidance of that word, and the substitution of another of the same meaning, could have no effect in legalizing a transaction which would be condemned under its proper name. And so I held the treaty to be invalid for want of a proper subject to act upon, and because it invaded the legislative department.

The inexpediency of the treaty was in the question of crippling and mutilating Arkansas, reducing her to the class of weak States, and that against all the reasons which had induced Congress, four years before, to add on twelve thousand square miles to her domain; and to almost double the productive and inhabitable capacity of the Territory, and future State, by the character of the country added. I felt this wrong to Arkansas doubly, both as a neighbor to my own State, and because, having a friendship for the delegate, as well as for his territory, I had exerted myself to obtain the addition which had been thus cut off. I argued, as I thought, conclusively; but in vain. The treaty was largely ratified, and by a strong slaveholding vote, notwithstanding it curtailed slave territory, and made soil free which was then slave. Anxious to defeat the treaty for the benefit of Arkansas, I strongly presented this consequence, showing that there was, not only legal, but actually slavery upon the amputated part—that these twelve thousand square miles were inhabited, organized into counties, populous in some parts, and with the due proportion of slaves found in a southern and planting State. Nothing would do. It was a southern measure, negotiated, on the record, by a southern secretary at war, in reality by the clerk McKinney; and voted for by nineteen approving slaveholding senators against four dissenting. The affirmative vote was: Messrs. Barton, Berrien, Bouligny, Branch, Ezekiel Chambers, Cobb, King of Alabama, McKinley, McLane of Delaware, Macon, Ridgely, Smith of Maryland, Smith of South Carolina, John Tyler of Virginia, and Williams of Mississippi. The negative was, Messrs. Benton, Eaton, Rowan, and Tazewell.—Mr. Calhoun was then Vice-President, and did not vote; but he was in favor of the treaty, and assisted its ratification through his friends. The House of Representatives voted the appropriations to carry it into effect; and thus acquiesced in the repeal of an act of Congress by the President, Senate, and Cherokee Indians; and these appropriations were voted with the general concurrence of the southern members of the House. And thus another slice, and a pretty large one (twelve thousand square miles), was taken off of slave territory in the former province of Louisiana; which about completed the excision of what had been left for slave State occupation after the Missouri compromise of 1820, and the cession to Texas of contemporaneous date, and previous cessions to Indian tribes. And all this was the work of southern men, who then saw no objection to the Congressional legislation which acted upon slavery in territories—which further curtailed, and even extinguished slave soil in all the vast expanse of the former Louisiana—save and except the comparative little that was left in the State of Missouri, and in the mutilated Territory of Arkansas. The reason of the southern members for promoting this amputation of Arkansas in favor of the Cherokees, was simply to assist in inducing their removal by adding the best part of Arkansas, with its salt springs, to the ample millions of acres west of that territory already granted to them; but it was a gratuitous sacrifice, as the large part of the tribe had already emigrated to the seven millions of acres, and the remainder were waiting for moneyed inducements to follow. And besides, the desire for this removal could have no effect upon the constitutional power of Congress to legislate upon slavery in territories, or upon the policy which curtails the boundaries of a future slave State.

I have said that the amputated part of Arkansas was an organized part of the territory, divided into counties, settled and cultivated. Now, what became of these inhabitants?—their

property? and possessions? They were bought out by the federal government! A simultaneous act was passed, making a donation of three hundred and twenty acres of land (within the remaining part of Arkansas), to each head of a family who would retire from the amputated part; and subjecting all to military removal that did not retire. It was done. They all withdrew. Three hundred and twenty acres of land in front to attract them, and regular troops in the rear to push them, presented a motive power adequate to its object; and twelve thousand square miles of slave territory was evacuated by its inhabitants, with their flocks, and herds, and slaves; and not a word was said about it; and the event has been forgotten. But it is necessary to recall its recollection, as an important act, in itself, in relation to the new State of Arkansas—as being the work of the South—and as being necessary to be known in order to understand subsequent events.

CHAPTER XXXVII.

RENEWAL OF THE OREGON JOINT OCCUPATION CONVENTION.

The American settlement at the mouth of the Columbia, or Oregon, was made in 1811. It was an act of private enterprise, done by the eminent merchant, Mr. John Jacob Astor, of New-York; and the young town christened after his own name, Astoria: but it was done with the countenance and stipulated approbation of the government of the United States; and an officer of the United States navy—the brave Lieutenant Thorn, who was with Decatur at Tripoli, and who afterwards blew up his ship in Nootka Sound to avoid her capture by the savages (blowing himself, crew and savages all into the air).—was allowed to command his (Mr. Astor's) leading vessel, in order to impress upon the enterprise the seal of nationality. This town was captured during the war of 1812, by a ship of war detached for that purpose, by Commodore Hillyar, commanding a British squadron in the Pacific Ocean. No attempt was made to recover it during the war; and, at Ghent, after some efforts on the part of the British commissioners, to set up a title to it, its restitution was stipulated under the general clause which provided for the restoration of all places captured by either party. But it was not restored. An empty ceremony was gone through to satisfy the words of the treaty, and to leave the place in the hands of the British. An American agent, Mr. John Baptist Prevost, was sent to Valparaiso, to go in a British sloop of war (the Blossom) to receive the place, to sign a receipt for it, and leave it in the hands of the British. This was in the autumn of the year 1818; and coincident with that nominal restitution was the conclusion of a convention in London between the United States and British government, for the joint occupation of the Columbia for ten years—Mr. Gallatin and Mr. Rush the American negotiators—if those can be called negotiators who are tied down to particular instructions. The joint occupancy was provided for, and in these words: "That any country claimed by either party on the northwest coast of America, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years, to the subjects, citizens, and vessels of the two powers; without prejudice to any claim which either party might have to any part of the country."—I was a practising lawyer at St. Louis, no way engaged in politics, at the time this convention was published; but I no sooner saw it than I saw its delusive nature—its one-sidedness—and the whole disastrous consequences which were to result from it to the United States; and immediately wrote and published articles against it: of which the following is an extract:

"This is a specimen of the skill with which the diplomatic art deposits the seeds of a new contestation in the assumed settlement of an existing one,—and gives unequal privileges in words of equality,—and breeds a serious question, to be ended perhaps by war, where no question at all existed. Every word of the article for this joint occupation is a deception and a blunder—suggesting a belief for which there is no foundation, granting privileges for which there is no equivalent, and presenting ambiguities which require to be solved—peradventure by the sword. It speaks as if there was a mutuality of countries on the northwest coast to which the article was applicable, and a mutuality of benefits to accrue to the citizens of both governments by each occupying the country claimed by the other. Not so the fact. There is but one country in ques-

tion, and that is our own;—and of this the British are to have equal possession with ourselves, and we no possession of theirs. The Columbia is ours; Frazer's River is a British possession to which no American ever went, or ever will go. The convention gives a joint right of occupying the ports and harbors, and of navigating the rivers of each other. This would imply that each government possessed in that quarter, ports, and harbors, and navigable rivers; and were about to bring them into hotch-potch for mutual enjoyment. No such thing. There is but one port, and that the mouth of the Columbia—but one river, and that the Columbia itself: and both port and river our own. We give the equal use of these to the British, and receive nothing in return. The convention says that the "claim" of neither party is to be prejudiced by the joint possession. This admits that Great Britain has a claim—a thing never admitted before by us, nor pretended by her. At Ghent she stated no claim, and could state none. Her ministers merely asked for the river as a boundary, as being the most convenient; and for the use of the harbor at its mouth, as being necessary to their ships and trade; but stated no claim. Our commissioners reported that they (the British commissioners) endeavored 'to lay a nest-egg' for a future pretension; which they failed to do at Ghent in 1815, but succeeded in laying in London in 1818; and before the ten years are out, a full grown fighting chicken will be hatched of that egg. There is no mutuality in any thing. We furnish the whole stake—country, river, harbor; and shall not even maintain the joint use of our own. We shall be driven out of it, and the British remain sole possessors. The fur trade is the object. It will fare with our traders on the Columbia under this convention as it fared with them on the Miami of the Lakes (and on the lakes themselves), under the British treaties of '94 and '96, which admitted British traders into our territories. Our traders will be driven out; and that by the fair competition of trade, even if there should be no foul play. The difference between free and dutied goods, would work that result. The British traders pay no duties: ours pay above an average of fifty per centum. No trade can stand against such odds. But the competition will not be fair. The savages will be incited to kill and rob our traders, and they will be expelled by violence, without waiting the slower, but equally certain process, of expulsion by underselling. The result then is, that we admit the British into our country, our river, and our harbor; and we get no admittance into theirs, for they have none—Frazer's River and New Caledonia being out of the question—that they will become sole possessors of our river, our harbor, and our country; and at the end of the ten years will have an admitted 'claim' to our property, and the actual possession of it."

Thus I wrote in the year 1818, when the joint occupation convention of that year was promulgated. I wrote in advance; and long before the ten years were out, it was all far more than verified. Our traders were not only driven from the mouth of the Columbia River, but from all its springs and branches;—not only from all the Valley of the Columbia, but from the whole region of the Rocky Mountains between 49 and 42 degrees;—not only from all this mountain region, but from the upper waters of all our far distant rivers—the Missouri, the Yellow Stone, the Big Horn, the North Platte; and all their mountain tributaries. And, by authentic reports made to our government, not less than five hundred of our citizens had been killed, nor less than five hundred thousand dollars worth of goods and furs robbed from them;—the British remaining the undisturbed possessors of all the Valley of the Columbia, acting as its masters, and building forts from the sea to the mountains. This was the effect of the first joint occupation treaty, and every body in the West saw its approaching termination with pleasure; but the false step which the government had made induced another. They had admitted a "claim" on the part of Great Britain, and given her the sole, under the name of a joint, possession; and now to get her out was the difficulty. It could not be done; and the United States agreed to a further continued "joint" occupation (as it was illusively called in the renewed convention), not for ten years more, but "indefinitely," determinable on one year's notice from either party to the other. The reason for this indefinite, and injurious continuance, was set forth in the preamble to the renewed convention (Mr. Gallatin now the sole United States negotiator); and recited that the two governments "being desirous to prevent, as far as possible, all hazard of misunderstanding, and with a view to give further time for maturing measures which shall have for their object a more definite settlement of the claims of each party to the said territory;" do thereupon agree to renew the joint occupation article of the convention of 1818, &c. Thus, we had, by our diplomacy in 1818, and by the permitted non-execution of the Ghent treaty in the delivery of the post and country, hatched a question which threatened a "misunderstanding" between the two countries; and for maturing measures for the settlement of which indefinite time was required—and granted—Great Britain

remaining, in the mean time, sole occupant of the whole country. This was all that she could ask, and all that we could grant, even if we actually intended to give up the country.

I was a member of the Senate when this renewed convention was sent in for ratification, and opposed it with all the zeal and ability of which I was master: but in vain. The weight of the administration, the indifference of many to a remote object, the desire to put off a difficulty, and the delusive argument that we could terminate it at any time—(a consolation so captivating to gentle temperaments)—were too strong for reason and fact; and I was left in a small minority on the question of ratification. But I did not limit myself to opposition to the treaty. I proposed, as well as opposed; and digested my opinions into three resolves; and had them spread on the executive journal, and made part of our parliamentary history for future reference.

The resolves were: 1. "That it is not expedient for the United States and Great Britain to treat further in relation to their claims on the northwest coast of America, on the basis of a joint occupation by their respective citizens. 2. That it is expedient that the joint-occupation article in the convention of 1818 be allowed to expire upon its own limitation. 3. That it is expedient for the government of the United States to continue to treat with His Britannic Majesty in relation to said claims, on the basis of a separation of interests, and the establishment of a permanent boundary between their dominions westward of the Rocky Mountains, in the shortest possible time." These resolves were not voted upon; but the negative vote on the ratification of the convention showed what the vote would have been if it had been taken. That negative vote was—Messrs. Benton, Thomas W. Cobb of Georgia, Eaton of Tennessee, Ellis of Mississippi, Johnson of Kentucky, Kane of Illinois, and Rowan of Kentucky—in all 7. Eighteen years afterwards, and when we had got to the cry of "inevitable war," I had the gratification to see the whole Senate, all Congress, and all the United States, occupy the same ground in relation to this joint occupation on which only seven senators stood at the time the convention for it was ratified.

CHAPTER XXXVIII.

PRESIDENTIAL ELECTION OF 1828, AND FURTHER ERRORS OF MONS. DE TOCQUEVILLE.

General Jackson and Mr. Adams were the candidates;—with the latter, Mr. Clay (his Secretary of State), so intimately associated in the public mind, on account of the circumstances of the previous presidential election in the House of Representatives, that their names and interests were inseparable during the canvass. General Jackson was elected, having received 178 electoral votes to 83 received by Mr. Adams. Mr. Richard Rush, of Pennsylvania, was the vice-presidential candidate on the ticket of Mr. Adams, and received an equal vote with that gentleman: Mr. Calhoun was the vice-presidential candidate on the ticket with General Jackson, and received a slightly less vote—the deficiency being in Georgia, where the friends of Mr. Crawford still resented his believed connection with the "A. B. plot." In the previous election, he had been neutral between General Jackson and Mr. Adams; but was now decided on the part of the General, and received the same vote every where, except in Georgia. In this election there was a circumstance to be known and remembered. Mr. Adams and Mr. Rush were both from the non-slaveholding—General Jackson and Mr. Calhoun from the slaveholding States, and both large slave owners themselves—and both received a large vote (73 each) in the free States—and of which at least forty were indispensable to their election. There was no jealousy, or hostile, or aggressive spirit in the North at that time against the South!

The election of General Jackson was a triumph of democratic principle, and an assertion of the people's right to govern themselves. That principle had been violated in the presidential election in the House of Representatives in the session of 1824–'25; and the sanction, or rebuke, of that violation was a leading question in the whole canvass. It was also a triumph over the high protective policy, and the federal internal improvement policy, and the latitudinous construction of the constitution; and of the democracy over the federalists, then called national republicans; and was the re-establishment of parties on principle, according to the landmarks of the

early ages of the government. For although Mr. Adams had received confidence and office from Mr. Madison and Mr. Monroe, and had classed with the democratic party during the fusion of parties in the "era of good feeling," yet he had previously been federal; and in the re-establishment of old party lines which began to take place after the election of Mr. Adams in the House of Representatives, his affinities, and policy, became those of his former party: and as a party, with many individual exceptions, they became his supporters and his strength. General Jackson, on the contrary, had always been democratic, so classing when he was a senator in Congress under the administration of the first Mr. Adams, and when party lines were most straightly drawn, and upon principle: and as such now receiving the support of men and States which took their political position at that time, and had maintained it ever since—Mr. Macon and Mr. Randolph, for example, and the States of Virginia and Pennsylvania. And here it becomes my duty to notice an error, or a congeries of errors, of Mons. de Tocqueville, in relation to the causes of General Jackson's election; and which he finds exclusively in the glare of a military fame resulting from "a very ordinary achievement, only to be remembered where battles are rare." He says:

"General Jackson, whom the Americans have twice elected to the head of their government, is a man of a violent temper and mediocre talents. No one circumstance in the whole course of his career ever proved that he is qualified to govern a free people; and, indeed, the majority of the enlightened classes of the Union has always been opposed to him. But he was raised to the Presidency, and has been maintained in that lofty station, solely by the recollection of a victory which he gained twenty years ago, under the walls of New Orleans;—a victory which, however, was a very ordinary achievement, and which could only be remembered in a country where battles are rare."—(*Chapter* 17.)

This may pass for American history, in Europe and in a foreign language, and even finds abettors here to make it American history in the United States, with a preface and notes to enforce and commend it: but America will find historians of her own to do justice to the national, and to individual character. In the mean time I have some knowledge of General Jackson, and the American people, and the two presidential elections with which they honored the General; and will oppose it, that is, my knowledge, to the flippant and shallow statements of Mons. de Tocqueville. "*A man of violent temper.*" I ought to know something about that—contemporaries will understand the allusion—and I can say that General Jackson had a good temper, kind and hospitable to every body, and a feeling of protection in it for the whole human race, and especially the weaker and humbler part of it. He had few quarrels on his own account; and probably the very ones of which Mons. de Tocqueville had heard were accidental, against his will, and for the succor of friends. "*Mediocre talent, and no capacity to govern a free people.*" In the first place, free people are not governed by any man, but by laws. But to understand the phrase as perhaps intended, that he had no capacity for civil administration, let the condition of the country at the respective periods when he took up, and when he laid down the administration, answer. He found the country in domestic distress—pecuniary distress—and the national and state legislation invoked by leading politicians to relieve it by empirical remedies;—tariffs, to relieve one part of the community by taxing the other;—internal improvement, to distribute public money;—a national bank, to cure the paper money evils of which it was the author;—the public lands the pillage of broken bank paper;—depreciated currency and ruined exchanges;—a million and a half of "unavailable funds" in the treasury;—a large public debt;—the public money the prey of banks;—no gold in the country—only twenty millions of dollars in silver, and that in banks which refused, when they pleased, to pay it down in redemption of their own notes, or even to render back to depositors. Stay laws, stop laws, replevin laws, baseless paper, the resource in half the States to save the debtor from his creditor; and national bankrupt laws from Congress, and local insolvent laws, in the States, the demand of every session. Indian tribes occupying a half, or a quarter of the area of southern States, and unsettled questions of wrong and insult, with half the powers of Europe. Such was the state of the country when General Jackson became President: what was it when he left the Presidency? Protective tariffs, and federal internal improvement discarded; the national bank left to expire upon its own limitation; the public lands redeemed from the pillage of broken bank paper; no more "unavailable

funds;" an abundant gold and silver currency; the public debt paid off; the treasury made independent of banks; the Indian tribes removed from the States; indemnities obtained from all foreign powers for all past aggressions, and no new ones committed; several treaties obtained from great powers that never would treat with us before; peace, friendship, and commerce with all the world; and the measures established which, after one great conflict with the expiring Bank of the United States, and all her affiliated banks in 1837, put an end to bank dominion in the United States, and all its train of contractions and expansions, panic and suspension, distress and empirical relief. This is the answer which the respective periods of the beginning and the ending of General Jackson's administration gives to the flippant imputation of no capacity for civil government. I pass on to the next. "*The majority of the enlightened classes always opposed to him.*" A majority of those classes which Mons. de Tocqueville would chiefly see in the cities, and along the highways—bankers, brokers, jobbers, contractors, politicians, and speculators—were certainly against him, and he as certainly against them: but the mass of the intelligence of the country was with him! and sustained him in retrieving the country from the deplorable condition in which the "enlightened classes" had sunk it! and in advancing it to that state of felicity at home, and respect abroad, which has made it the envy and admiration of the civilized world, and the absorbent of populations of Europe. I pass on. "*Raised to the Presidency and maintained there solely by the recollection of the victory at New Orleans.*" Here recollection, and military glare, reverse the action of their ever previous attributes, and become stronger, instead of weaker, upon the lapse of time. The victory at New Orleans was gained in the first week of the year 1815; and did not bear this presidential fruit until fourteen and eighteen years afterwards, and until three previous good seasons had passed without production. There was a presidential election in 1816, when the victory was fresh, and the country ringing, and imaginations dazzled with it: but it did not make Jackson President, or even bring him forward as a candidate. The same four years afterwards, at the election of 1820—not even a candidate then. Four years still later, at the election of 1824, he became a candidate, and—was not elected;—receiving but 99 electoral votes out of 261. In the year 1828 he was first elected, receiving 178 out of 261 votes; and in 1832 he was a second time elected, receiving 219 out of 288 votes. Surely there must have been something besides an old military recollection to make these two elections so different from the two former; and there was! That something else was principle! and the same that I have stated in the beginning of this chapter as entering into the canvass of 1828, and ruling its issue. I pass on to the last disparagement. "A victory which was a very ordinary achievement, and only to be remembered where battles were rare." Such was not the battle at New Orleans. It was no ordinary achievement. It was a victory of 4,600 citizens just called from their homes, without knowledge of scientific war, under a leader as little schooled as themselves in that particular, without other advantages than a slight field work (a ditch and a bank of earth) hastily thrown up—over double their numbers of British veterans, survivors of the wars of the French Revolution, victors in the Peninsula and at Toulouse, under trained generals of the Wellington school, and with a disparity of loss never before witnessed. On one side 700 killed (including the first, second and third generals); 1400 wounded; 500 taken prisoners. On the other, six privates killed, and seven wounded; and the total repulse of an invading army which instantly fled to its "wooden walls," and never again placed a hostile foot on American soil. Such an achievement is not ordinary, much less "very" ordinary. Does Mons. de Tocqueville judge the importance of victories by the numbers engaged, and the quantity of blood shed, or by their consequences? If the former, the cannonade on the heights of Valmy (which was not a battle, nor even a combat, but a distant cannon firing in which few were hurt), must seem to him a very insignificant affair. Yet it did what the marvellous victories of Champaubert, Montmirail, Château-Thierry, Vauchamps and Montereau could not do—turned back the invader, and saved the soil of France from the iron hoof of the conqueror's horse! and was commemorated twelve years afterwards by the great emperor in a ducal title bestowed upon one of its generals. The victory at New Orleans did what the cannonade at Valmy did—drove back the invader! and also what it did not do—de-

stroyed the one fourth part of his force. And, therefore, it is not to be disparaged, and will not be, by any one who judges victories by their consequences, instead of by the numbers engaged. And so the victory at New Orleans will remain in history as one of the great achievements of the world, in spite of the low opinion which the writer on American democracy entertains of it. But Mons. de Tocqueville's disparagement of General Jackson, and his achievement, does not stop at him and his victory. It goes beyond both, and reaches the American people, their republican institutions, and the elective franchise: It represents the people as incapable of self-government—as led off by a little military glare to elect a man twice President who had not one qualification for the place, who was violent and mediocre, and whom the enlightened classes opposed: all most unjustly said, but still to pass for American history in Europe, and with some Americans at home.

Regard for Mons. de Tocqueville is the cause of this correction of his errors: it is a piece of respect which I do not extend to the riffraff of European writers who come here to pick up the gossip of the highways, to sell it in Europe for American history, and to requite with defamation the hospitalities of our houses. He is not of that class: he is above it: he is evidently not intentionally unjust. But he is the victim of the company which he kept while among us; and his book must pay the penalty of the impositions practised upon him. The character of our country, and the cause of republican government, require his errors to be corrected: and, unhappily, I shall have further occasion to perform that duty.

CHAPTER XXXIX.

RETIRING OF MR. MACON.

Philosophic in his temperament and wise in his conduct, governed in all his actions by reason and judgment, and deeply imbued with Bible images, this virtuous and patriotic man (whom Mr. Jefferson called "the last of the Romans)" had long fixed the term of his political existence at the age which the Psalmist assigns for the limit of manly life: "The days of our years are threescore years and ten; and if by reason of strength they be fourscore years, yet is their strength labor and sorrow, for it is soon cut off, and we fly away." He touched that age in 1828; and, true to all his purposes, he was true to his resolve in this, and executed it with the quietude and indifference of an ordinary transaction. He was in the middle of a third senatorial term, and in the full possession of all his faculties of mind and body; but his time for retirement had come—the time fixed by himself; but fixed upon conviction and for well-considered reasons, and inexorable to him as if fixed by fate. To the friends who urged him to remain to the end of his term, and who insisted that his mind was as good as ever, he would answer, that it was good enough yet to let him know that he ought to quit office before his mind quit him, and that he did not mean to risk the fate of the Archbishop of Grenada. He resigned his senatorial honors as he had worn them—meekly, unostentatiously, in a letter of thanks and gratitude to the General Assembly of his State;—and gave to repose at home that interval of thought and quietude which every wise man would wish to place between the turmoil of life and the stillness of eternity. He had nine years of this tranquil enjoyment, and died without pain or suffering June 29th, 1837, —characteristic in death as in life. It was eight o'clock in the morning when he felt that the supreme hour had come, had himself full-dressed with his habitual neatness, walked in the room and lay upon the bed, by turns conversing kindly with those who were about him, and showing by his conduct that he was ready and waiting, but hurrying nothing. It was the death of Socrates, all but the hemlock, and in that full faith of which the Grecian sage had only a glimmering. He directed his own grave on the point of a sterile ridge (where nobody would wish to plough), and covered with a pile of rough flint-stone, (which nobody would wish to build with), deeming this sterility and the uselessness of this rock the best security for that undisturbed repose of the bones which is still desirable to those who are indifferent to monuments.

In almost all strongly-marked characters there is usually some incident or sign, in early life, which shows that character, and reveals to the close observer the type of the future man. So it was with Mr. Macon. His firmness, his pa-

triotism, his self-denial, his devotion to duty and disregard of office and emolument; his modesty, integrity, self-control, and subjection of conduct to the convictions of reason and the dictates of virtue, all so steadily exemplified in a long life, were all shown from the early age of eighteen, in the miniature representation of individual action, and only confirmed in the subsequent public exhibitions of a long, beautiful, and exalted career.

He was of that age, and a student at Princeton college, at the time of the Declaration of American Independence. A small volunteer corps was then on the Delaware. He quit his books, joined it, served a term, returned to Princeton, and resumed his studies. In the year 1778 the Southern States had become a battle-field, big with their own fate, and possibly involving the issue of the war. British fleets and armies appeared there, strongly supported by the friends of the British cause; and the conquest of the South was fully counted upon. Help was needed in these States; and Mr. Macon, quitting college, returned to his native county in North Carolina, joined a militia company as a private, and marched to South Carolina—then the theatre of the enemy's operations. He had his share in all the hardships and disasters of that trying time; was at the fall of Fort Moultrie, surrender of Charleston, defeat at Camden; and in the rapid winter retreat across the upper part of North Carolina. He was in the camp on the left bank of the Yadkin when the sudden flooding of that river, in the brief interval between the crossing of the Americans and the coming up of the British, arrested the pursuit of Cornwallis, and enabled Greene to allow some rest to his wearied and exhausted men. In this camp, destitute of every thing and with gloomy prospects ahead, a summons came to Mr. Macon from the Governor of North Carolina, requiring him to attend a meeting of the General Assembly, of which he had been elected a member, without his knowledge, by the people of his county. He refused to go: and the incident being talked of through the camp, came to the knowledge of the general. Greene was a *man* himself, and able to know a *man*. He felt at once that, if this report was true, this young soldier was no common character; and determined to verify the fact. He sent for the young man, inquired of him, heard the truth, and then asked for the reason of this unexpected conduct—this preference for a suffering camp over a comfortable seat in the General Assembly? Mr. Macon answered him, in his quaint and sententious way, that he had seen the *faces* of the British many times, but had never seen their *backs*, and meant to stay in the army till he did. Greene instantly saw the material the young man was made of, and the handle by which he was to be worked. That material was patriotism; that handle a sense of duty; and laying hold of this handle, he quickly worked the young soldier into a different conclusion from the one that he had arrived at. He told him he could do more good as a member of the General Assembly than as a soldier; that in the army he was but one man, and in the General Assembly he might obtain many, with the supplies they needed, by showing the destitution and suffering which he had seen in the camp; and that it was his duty to go. This view of duty and usefulness was decisive. Mr. Macon obeyed the Governor's summons; and by his representations contributed to obtain the supplies which enabled Greene to turn back and face Cornwallis, —fight him, cripple him, drive him further back than he had advanced (for Wilmington is South of Camden), disable him from remaining in the South (of which, up to the battle of Guilford, he believed himself to be master); and sending him to Yorktown, where he was captured, and the war ended.

The philosophy of history has not yet laid hold of the battle of Guilford, its consequences and effects. That battle made the capture at Yorktown. The events are told in every history: their connection and dependence in none. It broke up the plan of Cornwallis in the South, and changed the plan of Washington in the North. Cornwallis was to subdue the Southern States, and was doing it until Greene turned upon him at Guilford. Washington was occupied with Sir Henry Clinton, then in New-York, with 12,000 British troops. He had formed the heroic design to capture Clinton and his army (the French fleet co-operating) in that city, and thereby putting an end to the war. All his preparations were going on for that grand consummation when he got the news of the battle of Guilford, the retreat of Cornwallis to Wilmington, his inability to keep the field in the South, and his return northward through the lower part of Virginia. He saw his advantage—an easier prey

—and the same result, if successful. Cornwallis or Clinton, either of them captured, would put an end to the war. Washington changed his plan, deceived Clinton, moved rapidly upon the weaker general, captured him and his 7000 men; and ended the revolutionary war. The battle of Guilford put that capture into Washington's hands; and thus Guilford and Yorktown became connected; and the philosophy of history shows their dependence, and that the lesser event was father to the greater. The State of North Carolina gave General Greene 25,000 acres of western land for that day's work, now worth a million of dollars; but the day itself has not yet obtained its proper place in American history.

The military life of Mr. Macon finished with his departure from the camp on the Yadkin, and his civil public life commenced on his arrival at the General Assembly, to which he had been summoned—that civil public life in which he was continued above forty years by free elections—representative in Congress under Washington, Adams, Jefferson, and Madison, and long the Speaker of the House; senator in Congress under Madison, Monroe, and John Quincy Adams; and often elected President of the Senate, and until voluntarily declining; twice refusing to be Postmaster General under Jefferson; never taking any office but that to which he was elected; and resigning his last senatorial term when it was only half run. But a characteristic trait remains to be told of his military life—one that has neither precedent nor imitation (the example of Washington being out of the line of comparison): he refused to receive pay, or to accept promotion, and served three years as a private through mere devotion to his country. And all the long length of his life was conformable to this patriotic and disinterested beginning: and thus the patriotic principles of the future senator were all revealed in early life, and in the obscurity of an unknown situation. Conformably to this beginning, he refused to take any thing under the modern acts of Congress for the benefit of the surviving officers and soldiers of the Revolution, and voted against them all, saying they had suffered alike (citizens and military), and all been rewarded together in the establishment of independence; that the debt to the army had been settled by pay, by pensions to the wounded, by half-pay and land to the officers; that no military claim could be founded on depreciated continental paper money, from which the civil functionaries who performed service, and the farmers who furnished supplies, suffered as much as any. On this principle he voted against the bill for Lafayette, against all the modern revolutionary pensions and land bounty acts, and refused to take any thing under them (for many were applicable to himself).

His political principles were deep-rooted, innate, subject to no change and to no machinery of party. He was democratic in the broad sense of the word, as signifying a capacity in the people for self-government; and in its party sense, as in favor of a plain and economical administration of the federal government, and against latitudinarian constructions of the constitution. He was a party man, not in the hackneyed sense of the word, but only where principle was concerned; and was independent of party in all his social relations, and in all the proceedings which he disapproved. Of this he gave a strong instance in the case of General Hamilton, whom he deemed honorable and patriotic; and utterly refused to be concerned in a movement proposed to affect him personally, though politically opposed to him. He venerated Washington, admired the varied abilities and high qualities of Hamilton; and esteemed and respected the eminent federal gentlemen of his time. He had affectionate regard for Madison and Monroe; but Mr. Jefferson was to him the full and perfect exemplification of the republican statesman. His almost fifty years of personal and political friendship and association with Mr. Randolph is historical, and indissolubly connects their names and memories in the recollection of their friends, and in history, if it does them justice. He was the early friend of General Jackson, and intimate with him when he was a senator in Congress under the administration of the elder Mr. Adams; and was able to tell Congress and the world who he was when he began to astonish Europe and America by his victories. He was the kind observer of the conduct of young men, encouraging them by judicious commendation when he saw them making efforts to become useful and respectable, and never noting their faults. He was just in all things, and in that most difficult of all things, judging political opponents,—to whom he would do no wrong, not merely in word or act, but in thought. He spoke frequently in Congress, always to the point, and briefly

and wisely; and was one of those speakers which Mr. Jefferson described Dr. Franklin to have been—a speaker of no pretension and great performance,—who spoke more good sense while he was getting up out of his chair, and getting back into it, than many others did in long discourses; and he suffered no reporter to dress up a speech for him.

He was above the pursuit of wealth, but also above dependence and idleness; and, like an old Roman of the elder Cato's time, worked in the fields at the head of his slaves in the intervals of public duty; and did not cease this labor until advancing age rendered him unable to stand the hot sun of summer—the only season of the year when senatorial duties left him at liberty to follow the plough, or handle the hoe. I think it was the summer of 1817,—that was the last time (he told me) he tried it, and found the sun too hot for him—then sixty years of age, a senator, and the refuser of all office. How often I think of him, when I see at Washington robustious men going through a scene of supplication, tribulation, and degradation, to obtain office, which the salvation of the soul does not impose upon the vilest sinner! His fields, his flocks, and his herds yielded an ample supply of domestic productions. A small crop of tobacco—three hogsheads when the season was good, two when bad—purchased the exotics which comfort and necessity required, and which the farm did not produce. He was not rich, but rich enough to dispense hospitality and charity, to receive all guests in his house, from the President to the day laborer—no other title being necessary to enter his house but that of an honest man; rich enough to bring up his family (two daughters) as accomplished ladies, and marry them to accomplished gentlemen—one to William Martin, Esq., the other to William Eaton, Esq., of Roanoke, my early school-fellow and friend for more than half a century; and, above all, he was rich enough to pay as he went, and never to owe a dollar to any man.

He was steadfast in his friendships, and would stake himself for a friend, but would violate no point of public duty to please or oblige him. Of this his relations with Mr. Randolph gave a signal instance. He drew a knife to defend him in the theatre at Philadelphia, when menaced by some naval and military officers for words spoken in debate, and deemed offensive to their professions; yet, when speaker of the House of Representatives, he displaced Mr. Randolph from the head of the committee of ways and means, because the chairman of that committee should be on terms of political friendship with the administration,—which Mr. Randolph had then ceased to be with Mr. Jefferson's. He was above executive office, even the highest the President could give; but not above the lowest the people could give, taking that of justice of the peace in his county, and refusing that of Postmaster-General at Washington. He was opposed to nepotism, and to all quartering of his connections on the government; and in the course of his forty-years' service, with the absolute friendship of many administrations and the perfect respect of all, he never had office or contract for any of his blood. He refused to be a candidate for the vice-presidency, but took the place of elector on the Van Buren ticket in 1836. He was against paper money and the paper system, and was accustomed to present the strong argument against both in the simple phrase, that this was a hard-money government, made by hard-money men, who had seen the evil of paper-money, and meant to save their posterity from it. He was opposed to securityships, and held that no man ought to be entangled in the affairs of another, and that the interested parties alone—those who expected to find their profit in the transaction—should bear the bad consequences, as well as enjoy the good ones, of their own dealings. He never called any one "friend" without being so; and never expressed faith in the honor and integrity of a man without acting up to the declaration when the occasion required it. Thus, in constituting his friend Weldon N. Edwards, Esq., his testamentary and sole executor, with large discretionary powers, he left all to his honor, and forbid him to account to any court or power for the manner in which he should execute that trust. This prohibition was so characteristic, and so honorable to both parties, and has been so well justified by the event, that I give it in his own words, as copied from his will, to wit:

"I subjoin the following, in my own handwriting, as a codicil to this my last will and testament, and direct that it be a part thereof—that is to say, having full faith in the honor and integrity of my executor above named, he shall not be held to account to any court or power what-

ever for the discharge of the trust confided by me to him in and by the foregoing will."

And the event has proved that his judgment, as always, committed no mistake when it bestowed that confidence. He had his peculiarities—idiosyncracies, if any one pleases—but they were born with him, suited to him, constituting a part of his character, and necessary to its completeness. He never subscribed to charities, but gave, and freely, according to his means—the left hand not knowing what the right hand did. He never subscribed for new books, giving as a reason to the soliciting agent, that nobody purchased his tobacco until it was inspected; and he could buy no book until he had examined it. He would not attend the Congress Presidential Caucus of 1824, although it was sure to nominate his own choice (Mr. Crawford); and, when a reason was wanted, he gave it in the brief answer that he attended one once and they cheated him, and he had said that he would never attend another. He always wore the same dress—that is to say, a suit of the same material, cut, and color, superfine navy blue—the whole suit from the same piece, and in the fashion of the time of the Revolution; and always replaced by a new one before it showed age. He was neat in his person, always wore fine linen, a fine cambric stock, a fine fur hat with a brim to it, fair top-boots—the boot outside of the pantaloons, on the principle that leather was stronger than cloth. He would wear no man's honors, and when complimented on the report on the Panama mission, which, as chairman of the committee on foreign relations, he had presented to the Senate, he would answer, "Yes; it is a good report; Tazewell wrote it." Left to himself, he was ready to take the last place, and the lowest seat any where; but in his representative capacity he would suffer no derogation of a constitutional or of a popular right. Thus, when Speaker of the House, and a place behind the President's Secretaries had been assigned him in some ceremony, he disregarded the programme; and, as the elect of the elect of all the people, took his place next after those whom the national vote had elected. And in 1803, on the question to change the form of voting for President and Vice-President, and the vote wanting one of the constitutional number of two thirds, he resisted the rule of the House which restricted the speaker's vote to a tie, or to a vote which would make a tie,—claimed his constitutional right to vote as a member, obtained it, gave the vote, made the two thirds, and carried the amendment. And, what may well be deemed idiosyncratic in these days, he was punctual in the performance of all his minor duties to the Senate, attending its sittings to the moment, attending all the committees to which he was appointed, attending all the funerals of the members and officers of the Houses, always in time at every place where duty required him; and refusing double mileage for one travelling, when elected from the House of Representatives to the Senate, or summoned to an extra session. He was an habitual reader and student of the Bible, a pious and religious man, and of the "*Baptist persuasion*," as he was accustomed to express it.

I have a pleasure in recalling the recollections of this wise, just, and good man, and in writing them down, not without profit, I hope, to rising generations, and at least as extending the knowledge of the kind of men to whom we are indebted for our independence, and for the form of government which they established for us. Mr. Macon was the real Cincinnatus of America, the pride and ornament of my native State, my hereditary friend through four generations, my mentor in the first seven years of my senatorial, and the last seven of his senatorial life; and a feeling of gratitude and of filial affection mingles itself with this discharge of historical duty to his memory.

ADMINISTRATION OF ANDREW JACKSON.

CHAPTER XL.

COMMENCEMENT OF GENERAL JACKSON'S ADMINISTRATION.

On the 4th of March, 1829, the new President was inaugurated, with the usual ceremonies, and delivered the address which belongs to the occasion; and which, like all of its class, was a general declaration of the political principles by which the new administration would be guided. The general terms in which such addresses are necessarily conceived preclude the possibility of minute practical views, and leave to time and events the qualification of the general declarations. Such declarations are always in harmony with the grounds upon which the new President's election had been made, and generally agreeable to his supporters, without being repulsive to his opponents; harmony and conciliation being an especial object with every new administration. So of General Jackson's inaugural address on this occasion. It was a general chart of democratic principles; but of which a few paragraphs will bear reproduction in this work, as being either new and strong, or a revival of good old principles, of late neglected. Thus: as a military man his election had been deprecated as possibly leading to a military administration: on the contrary he thus expressed himself on the subject of standing armies, and subordination of the military to the civil authority: "Considering standing armies as dangerous to free government, in time of peace, I shall not seek to enlarge our present establishment; nor disregard that salutary lesson of political experience which teaches that the military should be held subordinate to the civil power." On the cardinal doctrine of economy, and freedom from public debt, he said: "Under every aspect in which it can be considered, it would appear that advantage must result from the observance of a strict and faithful economy. This I shall aim at the more anxiously, both because it will facilitate the extinguishment of the national debt—the unnecessary duration of which is incompatible with real independence;—and because it will counteract that tendency to public and private profligacy which a profuse expenditure of money by the government is but too apt to engender." Reform of abuses and non-interference with elections, were thus enforced: "The recent demonstration of public sentiment inscribes, on the list of executive duties, in characters too legible to be overlooked, the task of reform, which will require, particularly, the correction of those abuses that have brought the patronage of the federal government into conflict with the freedom of elections." The oath of office was administered by the venerable Chief Justice, Marshall, to whom that duty had belonged for about thirty years. The Senate, according to custom, having been convened in extra session for the occasion, the cabinet appointments were immediately sent in and confirmed. They were, Martin Van Buren, of New-York, Secretary of State (Mr. James A. Hamilton, of New-York, son of the late General Hamilton, being charged with the duties of the office until Mr. Van Buren could enter upon them); Samuel D. Ingham, of Pennsylvania,

Secretary of the Treasury; John H. Eaton, of Tennessee, Secretary at War; John Branch, of North Carolina, Secretary of the Navy; John M. Berrien, of Georgia, Attorney General; William T. Barry, of Kentucky, Postmaster General; those who constituted the late cabinet, under Mr. Adams, only one of them, (Mr. John McLean, the Postmaster General,) classed politically with General Jackson; and a vacancy having occurred on the bench of the Supreme Court by the death of Mr. Justice Trimble, of Kentucky, Mr. McLean was appointed to fill it; and a further vacancy soon after occurring, the death of Mr. Justice Bushrod Washington (nephew of General Washington), Mr. Henry Baldwin, of Pennsylvania, was appointed in his place. The Twenty-first Congress dated the commencement of its legal existence on the day of the commencement of the new administration, and its members were as follows:

SENATE.

Maine—John Holmes, Peleg Sprague.
New Hampshire—Samuel Bell, Levi Woodbury.
Massachusetts—Nathaniel Silsbee, Daniel Webster.
Connecticut—Samuel A. Foot, Calvin Willey.
Rhode Island—Nehemiah R. Knight, Asher Robbins.
Vermont—Dudley Chase, Horatio Seymour.
New-York—Nathan Sanford, Charles E. Dudley.
New Jersey—Theodore Frelinghuysen, Mahlon Dickerson.
Pennsylvania—William Marks, Isaac D. Barnard.
Delaware—John M. Clayton, (*Vacant.*)
Maryland—Samuel Smith, Ezekiel F. Chambers.
Virginia—L. W. Tazewell, John Tyler.
North Carolina—James Iredell, (*Vacant.*)
South Carolina—William Smith, Robert Y. Hayne.
Georgia—George M. Troup, John Forsyth.
Kentucky—John Rowan, George M. Bibb.
Tennessee—Hugh L. White, Felix Grundy.
Ohio—Benjamin Ruggles, Jacob Burnet.
Louisiana—Josiah S. Johnston, Edward Livingston.
Indiana—William Hendricks, James Noble.
Mississippi—Powhatan Ellis, (*Vacant.*)
Illinois—Elias K. Kane, John McLane.
Alabama—John McKinley, William R. King.
Missouri—David Barton, Thomas H. Benton.

HOUSE OF REPRESENTATIVES.

Maine—John Anderson, Samuel Butman, George Evans, Rufus McIntire, James W. Ripley, Joseph F. Wingate—6. (*One vacant.*)
New Hampshire—John Brodhead, Thomas Chandler, Jossph Hammons, Jonathan Harvey. Henry Hubbard, John W. Weeks—6.
Massachusetts—John Bailey, Issac C. Bates, B. W. Crowninshield, John Davis, Henry W. Dwight, Edward Everett, Benjamin Gorham, George Grennell, jr., James L. Hodges, Joseph G. Kendall, John Reed, Joseph Richardson, John Varnum—13.
Rhode Island—Tristam Burgess, Dutee J. Pearce—2.
Connecticut—Noyes Barber, Wm. W. Ellsworth, J. W. Huntington, Ralph J. Ingersoll, W. L. Storrs, Eben Young—6.
Vermont—William Cahoon, Horace Everett, Jonathan Hunt, Rollin C. Mallary, Benjamin Swift—5.
New-York—William G. Angel, Benedict Arnold, Thomas Beekman, Abraham Bockee, Peter I. Borst, C. C. Cambreleng, Jacob Crocheron, Timothy Childs, Henry B. Cowles, Hector Craig, Charles G. Dewitt, John D. Dickinson, Jonas Earll, jr., George Fisher, Isaac Finch, Michael Hoffman, Joseph Hawkins, Jehiel H. Halsey, Perkins King, James W. Lent, John Magee, Henry C. Martindale, Robert Monell, Thomas Maxwell, E. Norton, Gershom Powers, Robert S. Rose, Henry R. Storrs, James Strong, Ambrose Spencer, John W. Taylor, Phineas L. Tracy, Gulian. C. Verplanck, Campbell P. White—34.
New Jersey—Lewis Condict, Richard M. Cooper, Thomas H. Hughes, Isaac Pierson, James F. Randolph, Samuel Swan—6.
Pennsylvania—James Buchanan, Richard Coulter, Thomas H. Crawford, Joshua Evans, Chauncey Forward, Joseph Fry, jr., James Ford, Innes Green, John Gilmore, Joseph Hemphill, Peter Ihrie, jr., Thomas Irwin, Adam King, George G. Leiper, H. A. Muhlenburg, Alem Marr, Daniel H. Miller, William McCreery, William Ramsay, John Scott, Philander Stephens, John B. Sterigere, Joel B. Sutherland, Samuel Smith, Thomas H. Sill—25. (*One vacant.*)
Delaware—Kensy Johns, jr.—1.
Maryland—Elias Brown, Clement Dorsey, Benjamin C. Howard, George E. Mitchell, Michael C. Sprigg, Benedict I. Semmes, Richard Spencer, George C. Washington, Ephraim K. Wilson—9.
Virginia—Mark Alexander, Robert Allen, Wm. S. Archer, Wm. Armstrong, jr., John S. Barbour, Philip P. Barbour, J. T. Boulding, Richard Coke, jr., Nathaniel H. Claiborne, Robert B. Craig, Philip Doddridge, Thomas Davenport, William F. Gordon, Lewis Maxwell, Charles F. Mercer, William McCoy, Thomas Newton, John Roane, Alexander Smyth, Andrew Stevenson, John Taliaferro, James Trezvant—22.
North Carolina—Willis Alston, Daniel L. Barringer, Samuel P. Carson, H. W. Conner, Edmund Deberry, Edward B. Dudley, Thomas H. Hall, Robert Potter, William B. Shepard, Augustine H. Shepperd, Jesse Speight, Lewis Williams—12. (*One vacant.*)

South Carolina—Robert W. Barnwell, James Blair, John Campbell, Warren R. Davis, William Drayton, William D. Martin, George McDuffie, William T. Nuckolls, Starling Tucker —9.

Georgia—Thomas F. Forster, Charles E. Haynes, Wilson Lumpkin, Henry G. Lamar, Wiley Thompson, Richard H. Wilde, James M. Wayne—7.

Kentucky—James Clark, N. D. Coleman, Thomas Chilton, Henry Daniel, Nathan Gaither, R. M. Johnson, John Kinkaid, Joseph Lecompte, Chittenden Lyon, Robert P. Letcher, Charles A. Wickliffe, Joel Yancey—12.

Tennessee—John Blair, John Bell, David Crockett, Robert Desha, Jacob C. Isacks, Cave Johnson, Pryor Lea, James K. Polk, James Standifer—9.

Ohio—Mordecai Bartley, Joseph H. Crane, William Creighton, James Findlay, John M. Goodenow, Wm. W. Irwin, Wm. Kennon, Wm. Russell, William Stanberry, James Shields, John Thomson, Joseph Vance, Samuel F. Vinton, Elisha Whittlesey—14.

Louisiana—Henry H. Gurley, W. H. Overton, Edward D. White—3.

Indiana—Ratliff Boon, Jonathan Jennings, John Test—3.

Alabama—R. E. B. Baylor, C. C. Clay. Dixon H. Lewis.—3.

Mississippi—Thomas Hinds—1.

Illinois—Joseph Duncan—1.

Missouri—Spencer Pettis—1.

DELEGATES.

Michigan Territory—John Biddle—1.

Arkansas Territory—A. H. Sevier—1.

Florida Territory—Joseph M. White—1.

Andrew Stevenson, of Virginia, was re-elected speaker of the House, receiving 152 votes out of 191; and he classing politically with General Jackson, this large vote in his favor, and the small one against him (and that scattered and thrown away on several different names not candidates), announced a pervading sentiment among the people, in harmony with the presidential election—and showing that political principles, and not military glare, had produced the G neral's election.

CHAPTER XLI.

FIRST ANNUAL MESSAGE OF GENERAL JACKSON TO THE TWO HOUSES OF CONGRESS.

The first annual message of a new President, being always a recommendation of practical measures, is looked to with more interest than the inaugural address, confined as this latter must be, to a declaration of general principles. That of General Jackson, delivered the 8th of December, 1829, was therefore anxiously looked for; and did not disappoint the public expectation. It was strongly democratic, and contained many recommendations of a nature to simplify, and purify the working of the government, and to carry it back to the times of Mr. Jefferson—to promote its economy and efficiency, and to maintain the rights of the people, and of the States in its administration. On the subject of electing a President and Vice-President of the United States, he spoke thus:

"I consider it one of the most urgent of my duties to bring to your attention the propriety of amending that part of our Constitution which relates to the election of President and Vice-President. Our system of government was, by its framers, deemed an experiment; and they, therefore, consistently provided a mode of remedying its defects.

"To the people belongs the right of electing their chief magistrate: it was never designed that their choice should, in any case, be defeated, either by the intervention of electoral colleges, or by the agency confided, under certain contingencies, to the House of Representatives. Experience proves, that, in proportion as agents to execute the will of the people are multiplied, there is danger of their wishes being frustrated. Some may be unfaithful: all are liable to err. So far, therefore, as the people can, with convenience, speak, it is safer for them to express their own will.

"In this, as in all other matters of public concern, policy requires that as few impediments as possible should exist to the free operation of the public will. Let us, then, endeavor so to amend our system, as that the office of chief magistrate may not be conferred upon any citizen but in pursuance of a fair expression of the will of the majority.

"I would therefore recommend such an amendment of the constitution as may remove all intermediate agency in the election of President and Vice-President. The mode may be so regulated as to preserve to each State its present relative weight in the election; and a failure in the first attempt may be provided for, by confining the second to a choice between the two highest candidates. In connection with such an amendment, it would seem advisable to limit the service of the chief magistrate to a single term, of either four or six years. If, however, it should not be adopted, it is worthy of consideration whether a provision disqualifying for office the Representatives in Congress on whom such an election may have devolved, would not be proper."

This recommendation in relation to our election system has not yet been carried into effect, though doubtless in harmony with the principles of our government, necessary to prevent abuses, and now generally demanded by the voice of the people. But the initiation of amendments to the federal constitution is too far removed from the people. It is in the hands of Congress and of the State legislatures; but even there an almost impossible majority—that of two thirds of each House, or two thirds of the State legislatures—is required to commence the amendment; and a still more difficult majority—that of three fourths of the States—to complete it. Hitherto all attempts to procure the desired amendment has failed; but the friends of that reform should not despair. The great British parliamentary reform was only obtained after forty years of annual motions in parliament; and forty years of organized action upon the public mind through societies, clubs, and speeches; and the incessant action of the daily and periodical press. In the meantime events are becoming more impressive advocates for this amendment than any language could be. The selection of President has gone from the hands of the people—usurped by irresponsible and nearly self-constituted bodies—in which the selection becomes the result of a juggle, conducted by a few adroit managers, who baffle the nomination until they are able to govern it, and to substitute their own will for that of the people. Perhaps another example is not upon earth of a free people voluntarily relinquishing the elective franchise, in a case so great as that of electing their own chief magistrate, and becoming the passive followers of an irresponsible body—juggled, and baffled, and governed by a few dextrous contrivers, always looking to their own interest in the game which they play in putting down and putting up men. Certainly the convention system, now more unfair and irresponsible than the exploded congress caucus system, must eventually share the same fate, and be consigned to oblivion and disgrace. In the meantime the friends of popular election should press the constitutional amendment which would give the Presidential election to the people, and discard the use of an intermediate body which disregards the public will and reduces the people to the condition of political automatons.

Closely allied to this proposed reform was another recommended by the President in relation to members of Congress, and to exclude them generally from executive appointments; and especially from appointments conferred by the President for whom they voted. The evil is the same whether the member votes in the House of Representatives when the election goes to that body, or votes and manages in a Congress caucus, or in a nominating convention. The act in either case opens the door to corrupt practices; and should be prevented by legal, or constitutional enactments, if it cannot be restrained by the feelings of decorum, or repressed by public opinion. On this point the message thus recommended:

"While members of Congress can be constitutionally appointed to offices of trust and profit, it will be the practice, even under the most conscientious adherence to duty, to select them for such stations as they are believed to be better qualified to fill than other citizens; but the purity of our government would doubtless be promoted by their exclusion from all appointments in the gift of the President in whose election they may have been officially concerned. The nature of the judicial office, and the necessity of securing in the cabinet and in diplomatic stations of the highest rank, the best talents and political experience, should, perhaps, except these from the exclusion.

On the subject of a navy, the message contained sentiments worthy of the democracy in its early day, and when General Jackson was a member of the United States Senate. The republican party had a POLICY then in respect to a navy: it was, a navy for DEFENCE, instead of CONQUEST; and limited to the protection of our coasts and commerce. That policy was impressively set forth in the celebrated instructions to the Virginia senators in the year 1800, in which it was said:

"With respect to the navy, it may be proper to remind you that whatever may be the proposed object of its establishment, or whatever may be the prospect of temporary advantages resulting therefrom, it is demonstrated by the experience of all nations, who have ventured far into naval policy, that such prospect is ultimately delusive; and that a navy has ever in practice been known more as an instrument of power, a source of expense, and an occasion of collisions and wars with other nations, than as an instrument of defence, of economy, or of protection to commerce."

These were the doctrines of the republican party, in the early stage of our government—in the great days of Jefferson and his compeers

We had a policy then—the result of thought, of judgment, and of experience: a navy for defence, and not for conquest: and, consequently, confinable to a limited number of ships, adequate to their defensive object—instead of thousands, aiming at the dominion of the seas. That policy was overthrown by the success of our naval combats during the war; and the idea of a great navy became popular, without any definite view of its cost and consequences. Admiration for good fighting did it, without having the same effect on the military policy. Our army fought well also, and excited admiration; but without subverting the policy which interdicted standing armies in time of peace. The army was cut down in peace: the navy was building up in peace. In this condition President Jackson found the two branches of the service—the army reduced by two successive reductions from a large body to a very small one—6000 men—and although illustrated with military glory yet refusing to recommend an army increase: the navy, from a small one during the war, becoming large during the peace—gradual increase the law—ship-building the active process, and rotting down the active effect; and thus we have been going on for near forty years. Correspondent to his army policy was that of President Jackson in relation to the navy; he proposed a pause in the process of ship-building and ship-rotting. He recommended a total cessation of the further building of vessels of the first and second class—ships of the line, and frigates—with a collection of materials for future use—and the limitation of our naval policy to the object of commercial protection. He did not even include coast defence, his experience having shown him that the men on shore could defend the land. In a word, he recommended a naval policy; and that was the same which the republicans of 1798 had adopted, and which Virginia made obligatory upon her senators in 1800; and which, under the blaze of shining victories, had yielded to the blind, and aimless, and endless operation of building and rotting peaceful ships of war. He said:

"In time of peace, we have need of no more ships of war than are requisite to the protection of our commerce. Those not wanted for this object must lay in the harbors, where, without proper covering, they rapidly decay; and, even under the best precautions for their preservation, must soon become useless. Such is already the case with many of our finest vessels; which, though unfinished, will now require immense sums of money to be restored to the condition in which they were, when committed to their proper element. On this subject there can be but little doubt that our best policy would be, to discontinue the building of ships of the first and second class, and look rather to the possession of ample materials, prepared for the emergencies of war, than to the number of vessels which we can float in a season of peace, as the index of our naval power."

This was written twenty years ago, and by a President who saw what he described—many of our finest ships going to decay before they were finished—demanding repairs before they had sailed—and costing millions for which there was no return. We have been going on at the same rate ever since—building, and rotting, and sinking millions; but little to show for forty years of ship-carpentry; and that little nothing to do but to cruise where there is nothing to catch, and to carry out ministers to foreign courts who are not quite equal to the Franklins, Adamses and Jeffersons—the Pinckneys, Rufus Kings, and Marshalls—the Clays, Gallatins and Bayards—that went out in common merchant vessels. Mr. Jefferson told me that this would be the case twenty-five years ago when naval glory overturned national policy, and when a navy board was created to facilitate ship-construction. But this is a subject which will require a chapter of its own, and is only incidentally mentioned now to remark that we have no policy with respect to a navy, and ought to have one—that there is no middle point between defence and conquest—and no sequence to a conquering navy but wars with the world,—and the debt, taxes, pension list, and pauper list of Great Britain.

The inutility of a Bank of the United States as a furnisher of a sound and uniform currency, and of questionable origin under our constitution, was thus stated:

"The charter of the Bank of the United States expires in 1836, and its stockholders will most probably apply for a renewal of their privileges. In order to avoid the evils resulting from precipitancy in a measure involving such important principles, and such deep pecuniary interests, I feel that I cannot, in justice to the parties interested, too soon present it to the deliberate consideration of the legislature and the people. Both the constitutionality and the expediency of the law creating this bank, are well questioned by a large portion of our fellow-citizens; and it must be admitted by all, that it has failed

in the great end of establishing a uniform and sound currency."

This is the clause which party spirit, and bank tactics, perverted at the time (and which has gone into history), into an attack upon the bank—a war upon the bank—with a bad motive attributed for a war so wanton. At the same time nothing could be more fair, and just, and more in consonance with the constitution which requires the President to make the legislative recommendations which he believes to be proper. It was notice to all concerned—the bank on one side, and the people on the other—that there would be questions, and of high import—constitutionality and expediency—if the present corporators, at the expiration of their charter, should apply for a renewal of their privileges. It was an intimation against the institution, not against its administrators, to whom a compliment was paid in another part of the same message, in ascribing to the help of their "judicious arrangement" the averting of the mercantile pressure which might otherwise have resulted from the sudden withdrawal of the twelve and a half millions which had just been taken from the bank and applied to the payment of the public debt. But of this hereafter. The receipts and expenditures were stated, respectively, for the preceding year, and estimated for the current year, the former at a fraction over twenty-four and a half millions—the latter a fraction over twenty-six millions—with large balances in the treasury, exhibiting the constant financial paradox, so difficult to be understood, of permanent annual balances with an even, or even deficient revenue. The passage of the message is in these words:

"The balance in the treasury on the 1st of January, 1829, was five millions nine hundred and seventy-two thousand four hundred and thirty-five dollars and eighty-one cents. The receipts of the current year are estimated at twenty-four millions, six hundred and two thousand, two hundred and thirty dollars, and the expenditures for the same time at twenty-six millions one hundred and sixty-four thousand five hundred and ninety-five dollars; leaving a balance in the treasury on the 1st of January next, of four millions four hundred and ten thousand and seventy dollars, eighty-one cents."

Other recommendations contained the sound democratic doctrines—speedy and entire extinction of the public debt—reduction of custom-house duties—equal and fair incidental protection to the great national interests (agriculture, manufactures and commerce)—the disconnection of politics and tariffs—and the duty of retrenchment by discontinuing and abolishing all useless offices. In a word, it was a message of the old republican school, in which President Jackson had been bred; and from which he had never departed; and which encouraged the young disciples of democracy, and consoled the old surviving fathers of that school.

CHAPTER XLII.

THE RECOVERY OF THE DIRECT TRADE WITH THE BRITISH WEST INDIA ISLANDS.

The recovery of this trade had been a large object with the American government from the time of its establishment. As British colonies we enjoyed it before the Revolution; as revolted colonies we lost it; and as an independent nation we sought to obtain it again. The position of these islands, so near to our ports and shores—the character of the exports they received from us, being almost entirely the product of our farms and forests, and their large amount, always considerable, and of late some four millions of dollars per annum—the tropical productions which we received in return, and the large employment it gave to our navigation—all combined to give a cherished value to this branch of foreign trade, and to stimulate our government to the greatest exertions to obtain and secure its enjoyment; and with the advantage of being carried on by our own vessels. But these were objects not easily attainable, and never accomplished until the administration of President Jackson. All powers are jealous of alien intercourse with their colonies, and have a natural desire to retain colonial trade in their own hands, both for commercial and political reasons; and have a perfect right to do so if they please. Partial and conditional admission to trade with their colonies, or total exclusion from them, is in the discretion of the mother country; and any participation in their trade by virtue of treaty stipulations or legislative enactment, is the result of concession—generally founded in a sense of self-interest, or at best in a calculation of mutual advantage. No less than six negotiations (besides several attempts at "concerted legislation") had been carried on

between the United States and Great Britain on this subject; and all, until the second year of General Jackson's administration, resulting in nothing more than limited concessions for a year, or for short terms; and sometimes coupled with conditions which nullified the privilege. It was a primary object of concern with General Washington's administration; and a knowledge of the action then had upon it elucidates both the value of the trade, the difficulty of getting admission to its participation, and the right of Great Britain to admit or deny its enjoyment to others. General Washington had practical knowledge on the subject. He had seen it enjoyed, and lost—enjoyed as British subjects, lost as revolted colonies and independent states—and knew its value, both from the use and the loss, and was most anxious to recover it. It was almost the first thing, in our foreign relations, to which he put his hand on becoming President; and literally did he put his hand to it. For as early as the 14th of October, 1789—just six months after his inauguration—in a letter of unofficial instructions to Mr. Gouverneur Morris, then in Europe, written with his own hand (requesting him to sound the British government on the subject of a commercial treaty with the United States), a point that he made was to ascertain their views in relation to allowing us the "privilege" of this trade. Privilege was his word, and the instruction ran thus: "Let it be strongly impressed on your mind that the privilege of carrying our productions in our own vessels to their islands, and bringing, in return, the productions of those islands to our ports and markets, is regarded here as of the highest importance," &c.

It was a prominent point in our very first negotiation with Great Britain in 1794; and the instructions to Mr. Jay, in May of that year, shows that admission to the trade was then only asked as a privilege, as in the year '89 and upon terms of limitation and condition. This is so material to the right understanding of this question, and to the future history of the case, and especially of a debate and vote in the Senate, of which President Jackson's instructions through Mr. Van Buren on the same subject was made the occasion, that I think it right to give the instructions of President Washington to Mr. Jay in his own words. They were these

"If to the actual footing of our commerce and navigation in the British European dominions could be added the privilege of carrying directly from the United States to the British West Indies in our own bottoms generally, or of certain specified burthens, the articles which by the Act of Parliament, 28, Geo. III., chap. 6, may be carried thither in British bottoms, and of bringing them thence directly to the United States in American bottoms, this would afford an acceptable basis of treaty for a term not exceeding fifteen years."

An article was inserted in the treaty in conformity to these principles—our carrying vessels limited in point of burthen to seventy tons and under; the privilege limited in point of duration to the continuance of the then existing war between Great Britain and the French Republic, and to two years after its termination; and restricted in the return cargo both as to the nature of the articles and the port of their destination. These were hard terms, and precarious, and the article containing them was "suspended" by the Senate in the act of ratification, in the hope to obtain better; and are only quoted here in order to show that this direct trade to the British West Indies was, from the beginning of our federal government, only sought as a privilege, to be obtained under restrictions and limitations, and subordinately to British policy and legislation. This was the end of the first negotiation; five others were had in the ensuing thirty years, besides repeated attempts at "concerted legislation"—all ending either abortively or in temporary and unsatisfactory arrangements.

The most important of these attempts was in the years 1822 and 1823: and as it forms an essential item in the history of this case, and shows, besides, the good policy of letting "well-enough" alone, and the great mischief of inserting an apparently harmless word in a bill of which no one sees the drift but those in the secret, I will here give its particulars, adopting for that purpose the language of senator Samuel Smith, of Maryland,—the best qualified of all our statesmen to speak on the subject, he having the practical knowledge of a merchant in addition to experience as a legislator. His statement is this:

"During the session of 1822, Congress was informed that an act was pending in Parliament for the opening of the colonial ports to the commerce of the United States. In consequence, an act was passed authorizing the President (then

Mr. Monroe), in case the act of Parliament was satisfactory to him, to open the ports of the United States to British vessels by his proclamation. The act of Parliament was deemed satisfactory, and a proclamation was accordingly issued, and the trade commenced. Unfortunately for our commerce, and I think contrary to justice, a treasury circular issued, directing the collectors to charge British vessels entering our ports with the alien tonnage and discriminating duties. This order was remonstrated against by the British minister (I think Mr. Vaughan). The trade, however, went on uninterrupted. Congress met, and a bill was drafted in 1823 by Mr. Adams, then Secretary of State, and passed both Houses, with little, if any, debate. I voted for it, believing that it met, in a spirit of reciprocity, the British act of Parliament. This bill, however, contained one little word, "elsewhere," which completely defeated all our expectations. It was noticed by no one. The senator from Massachusetts (Mr. Webster) may have understood its effect. If he did so understand it, he was silent. The effect of that word "elsewhere" was to assume the pretensions alluded to in the instructions to Mr. McLane. (Pretension to a "right" in the trade.) The result was, that the British government shut their colonial ports immediately, and thenceforward. This act of 1822 gave us a monopoly (virtually) of the West India trade. It admitted, free of duty, a variety of articles, such as Indian corn, meal, oats, peas, and beans. The British government thought we entertained a belief that they could not do without our produce, and by their acts of the 27th June and 5th July, 1825, they opened their ports to all the world, on terms far less advantageous to the United States, than those of the act of 1822."

Such is the important statement of General Smith. Mr. Webster was present at the time, and said nothing. Both these acts were clear rights on the part of Great Britain, and that of 1825 contained a limitation upon the time within which each nation was to accept the privilege it offered, or lose the trade for ever. This legislative privilege was accepted by all nations which had any thing to send to the British West Indies, except the United States. Mr. Adams did not accept the proffered privilege—undertook to negotiate for better terms—failed in the attempt—and lost all. Mr. Clay was Secretary of State, Mr. Gallatin the United States Minister in London, and the instructions to him were, to insist upon it as a "right" that our produce should be admitted on the same terms on which produce from the British possessions were admitted.—This was the "elsewhere," &c. The British government refused to negotiate; and then Mr. Gallatin was instructed to waive temporarily the demand of right, and accept the privilege offered by the act of 1825. But in the mean time the year allowed in the act for its acceptance had expired, and Mr. Gallatin was told that his offer was too late! To that answer the British ministry adhered; and, from the month of July, 1826, the direct trade to the British West Indies was lost to our citizens, leaving them no mode of getting any share in that trade, either in sending out our productions or receiving theirs, but through the expensive, tedious, and troublesome process of a circuitous voyage and the intervention of a foreign vessel. The shock and dissatisfaction in the United States were extreme at this unexpected bereavement; and that dissatisfaction entered largely into the political feelings of the day, and became a point of attack on Mr. Adams's administration, and an element in the presidential canvass which ended in his defeat.

In giving an account of this untoward event to his government, Mr. Gallatin gave an account of his final interview with Mr. Huskisson, from which it appeared that the claim of "right" on the part of the United States, on which Mr. Gallatin had been instructed to "insist," was "temporarily waived;" but without effect. Irritation, on account of old scores, as expressed by Mr Gallatin—or resentment at our pertinacious persistence to secure a "right" where the rest of the world accepted a "privilege," as intimated by Mr. Huskisson—mixed itself with the refusal; and the British government adhered to its absolute right to regulate the foreign trade of its colonies, and to treat us as it did the rest of the world. The following are passages from Mr. Gallatin's dispatch, from London, September 11, 1827:

"Mr. Huskisson said it was the intention of the British government to consider the intercourse of the British colonies as being exclusively under its control, and any relaxation from the colonial system as an indulgence, to be granted on such terms as might suit the policy of Great Britain at the time it was granted. I said every question of *right* had, on this occasion, been waived on the part of the United States, the only object of the present inquiry being to ascertain whether, as a matter of mutual convenience, the intercourse might not be opened in a manner satisfactory to both countries. He (Mr. H.) said that it had appeared as if America had entertained the opinion that the

British West Indies could not exist without her supplies; and that she might, therefore, compel Great Britain to open the intercourse on any terms she pleased. I disclaimed any such belief or intention on the part of the United States. But it appeared to me, and I intimated it, indeed, to Mr. Huskisson, that he was acting rather under the influence of irritated feelings, on account of past events, than with a view to the mutual nterests of both parties."

This was Mr. Gallatin's last dispatch. An order in council was issued, interdicting the trade to the United States; and he returned home. Mr. James Barbour, Secretary at War, was sent to London to replace him, and to attempt again the repulsed negotiation; but without success. The British government refused to open the question: and thus the direct access to this valuable commerce remained sealed against us. President Adams, at the commencement of the session of Congress, 1827-28, formally communicated this fact to that body, and in terms which showed at once that an insult had been received, an injury sustained, redress refused, and ill-will established between the two governments. He said:

"At the commencement of the last session of Congress, they were informed of the sudden and unexpected exclusion by the British government, of access, in vessels of the United States, to all their colonial ports, except those immediately bordering upon our own territory.

"In the amicable discussions which have succeeded the adoption of this measure, which, as it affected harshly the interests of the United States, became a subject of expostulation on our part, the principles upon which its justification has been placed have been of a diversified character. It has at once been ascribed to a mere recurrence to the old long-established principle of colonial monopoly, and at the same time to a feeling of resentment, because the offers of an act of Parliament, opening the colonial ports upon certain conditions, had not been grasped at with sufficient eagerness by an instantaneous conformity to them. At a subsequent period it has been intimated that the new exclusion was in resentment, because a prior act of Parliament, of 1822, opening certain colonial ports, under heavy and burdensome restrictions, to vessels of the United States, had not been reciprocated by an admission of British vessels from the colonies, and their cargoes, without any restriction or discrimination whatever. But, be the motive for the interdiction what it may, the British government have manifested no disposition, either by negotiation or by corresponding legislative enactments, to recede from it; and we have been given distinctly to understand that neither of the bills which were under the consideration of Congress at their last session, would have been deemed sufficient in their concessions to have been rewarded by any relaxation from the British interdict. The British government have not only declined negotiation upon the subject, but, by the principle they have assumed with reference to it, have precluded even the means of negotiation. It becomes not the self-respect of the United States, either to solicit gratuitous favours, or to accept, as the grant of a favor, that for which an ample equivalent is exacted."

This was the communication of Mr. Adams to Congress, and certainly nothing could be more vexatious or hopeless than the case which he presented—an injury, an insult, a rebuff, and a refusal to talk with us upon the subject. Negotiation, and the hope of it, having thus terminated, President Adams did what the laws required of him, and issued his proclamation making known to the country the total cessation of all direct commerce between the United States and the British West India Islands.

The loss of this trade was a great injury to the United States (besides the insult), and was attended by circumstances which gave it the air of punishment for something that was past. It was a rebuff in the face of Europe; for while the United States were sternly and unceremoniously cut off from the benefit of the act of 1825, for omission to accept it within the year, yet other powers in the same predicament (France, Spain and Russia) were permitted to accept after the year; and the "irritated feelings" manifested by Mr. Huskisson indicated a resentment which was finding its gratification. We were ill-treated, and felt it. The people felt it. It was an ugly case to manage, or to endure; and in this period of its worst aspect General Jackson was elected President.

His position was delicate and difficult. His election had been deprecated as that of a rash and violent man, who would involve us in quarrels with foreign nations; and here was a dissension with a great nation lying in wait for him—prepared to his hand—the legacy of his predecessor—either to be composed satisfactorily, or to ripen into retaliation and hostility; for it was not to be supposed that things could remain as they were. He had to choose between an attempt at amicable recovery of the trade by new overtures, or retaliation—leading to, it is not known what. He determined upon the first of these alternatives, and Mr. Louis McLane, of Delaware, was selected for the delicate occasion. He was

sent minister to London; and in renewing an application which had been so lately and so categorically rejected, some reason had to be given for a persistance which might seem both importunate and desperate, and even deficient in self-respect; and that reason was found in the simple truth that there had been a change of administration in the United States, and with it a change of opinion on the subject, and on the essential point of a "right" in us to have our productions admitted into her West Indies on the same terms as British productions were received; that we were willing to take the trade as a "privilege," and simply and unconditionally, under the act of Parliament of 1825. Instructions to that effect had been drawn up by Mr. Van Buren, Secretary of State, under the special directions of General Jackson, who took this early occasion to act upon his cardinal maxim in our foreign intercourse: "*Ask nothing but what is right—submit to nothing wrong.*" This frank and candid policy had its effect. The great object was accomplished. The trade was recovered; and what had been lost under one administration, and precariously enjoyed under others, and been the subject of fruitless negotiation for forty years, and under six different Presidents—Washington, John Adams, Jefferson, Madison, Monroe, Quincy Adams—with all their accomplished secretaries and ministers, was now amicably and satisfactorily obtained under the administration of General Jackson; and upon the basis to give it perpetuity—that of mutual interest and actual reciprocity. The act of Parliament gave us the trade on terms nearly as good as those suggested by Washington in 1789; fully as good as those asked for by him in 1794; better than those inserted in the treaty of that year, and suspended by the Senate; and, though nominally on the same terms as given to the rest of the world, yet practically better, on account of our proximity to this British market; and our superabundance of articles (chiefly provisions and lumber) which it wants. And the trade has been enjoyed under this act ever since, with such entire satisfaction, that there is already an oblivion of the forty years' labor which it cost us to obtain it; and a generation has grown up, almost without knowing to whom they are indebted for its present enjoyment. But it made its sensation at the time, and a great one. The friends of the Jackson administration exulted; the people rejoiced; gratification was general—but not universal; and these very instructions, under which such great and lasting advantages had been obtained, were made the occassion in the Senate of the United States of rejecting their ostensible author as a minister to London. But of this hereafter.

The auspicious conclusion of so delicate an affair was doubtless first induced by General Jackson's frank policy in falling back upon Washington's ground of "privilege," in contradistinction to the new pretension of "right,"—helped out a little, it may be, by the possible after-clap suggested in the second part of his maxim. Good sense and good feeling may also have had its influence, the trade in question being as desirable to Great Britian as to the United States, and better for each to carry it on direct in their own vessels, than circuitously in the vessels of others; and the articles on each side being of a kind to solicit mutual exchange—tropical productions on one part, and those of the temperate zone on the other. But there was one thing which certainly contributed to the good result, and that was the act of Congress of May 29th, of which General Samuel Smith, senator from Maryland, was the chief promoter; and by which the President was authorized, on the adoption of certain measures by Great Britian, to open the ports of the United States to her vessels on reciprocal terms. The effect of this act was to strengthen General Jackson's candid overture; and the proclamation opening the trade was issued October the 5th, 1830, in the second year of the first term of the administration of President Jackson. And under that proclamation this long desired trade has been enjoyed ever since, and promises to be enjoyed in after time co-extendingly with the duration of peace between the two countries.

CHAPTER XLIII.

ESTABLISHMENT OF THE GLOBE NEWSPAPER.

At a presidential levee in the winter of 1830–'31, Mr. Duff Green, editor of the *Telegraph* newspaper, addressed a person then and now a respectable resident of Washington city (Mr. J M. Duncanson), and invited him to call at his house, as he had something to say to him which

would require a confidential interview. The call was made, and the object of the interview disclosed, which was nothing less than to engage his (Mr. Duncanson's) assistance in the execution of a scheme in relation to the next presidential election, in which General Jackson should be prevented from becoming a candidate for re-election, and Mr. Calhoun should be brought forward in his place. He informed Mr. Duncanson that a rupture was impending between General Jackson and Mr. Calhoun; that a correspondence had taken place between them, brought about (as he alleged) by the intrigues of Mr. Van Buren; that the correspondence was then in print, but its publication delayed until certain arrangements could be made; that the democratic papers at the most prominent points in the States were to be first secured; and men well known to the people as democrats, but in the exclusive interest of Mr. Calhoun, placed in charge of them as editors; that as soon as the arrangements were complete, the *Telegraph* would startle the country with the announcement of the difficulty (between General Jackson and Mr. Calhoun), and the motive for it; and that all the secured presses, taking their cue from the *Telegraph*, would take sides with Mr. Calhoun, and cry out at the same time; and the storm would seem to be so universal, and the indignation against Mr. Van Buren would appear to be so great, that even General Jackson's popularity would be unable to save him.

Mr. Duncanson was then invited to take part in the execution of this scheme, and to take charge of the Frankfort (Kentucky) *Argus;* and flattering inducements held out to encourage him to do so. Mr. Duncanson expressed surprise and regret at all that he heard—declared himself the friend of General Jackson, and of his re-election—opposed to all schemes to prevent him from being a candidate again—a disbeliever in their success, if attempted—and made known his determination to reveal the scheme, if it was not abandoned. Mr. Green begged him not to do so—said that the plan was not fully agreed upon; and might not be carried out. This was the end of the first interview. A few days afterwards Mr. Green called on Mr. Duncanson, and informed him that a rupture was now determined upon, and renewed his proposition that he should take charge of some paper, either as proprietor, or as editor on a liberal salary—one that would tell on the farmers and mechanics of the country, and made so cheap as to go into every workshop and cabin. Mr. Duncanson was a practical printer—owned a good job office—was doing a large business, especially for the departments—and only wished to remain as he was. Mr. Green offered, in both interviews, to relieve him from that concern by purchasing it from him, and assured him that he would otherwise lose the printing of the departments, and be sacrificed. Mr. Duncanson again refused to have any thing to do with the scheme, consulted with some friends, and caused the whole to be communicated to General Jackson. The information did not take the General by surprise; it was only a confirmation of what he well suspected, and had been wisely providing against. The history of the movement in Mr. Monroe's cabinet, to bring him before a military court, for his invasion of Spanish territory during the Seminole war, had just come to his knowledge; the doctrine of nullification had just been broached in Congress; his own patriotic toast: "The Federal Union: it must be preserved"—had been delivered; his own intuitive sagacity told him all the rest—the breach with Mr. Calhoun, the defection of the *Telegraph*, and the necessity for a new paper at Washington, faithful, fearless and incorruptible.

The *Telegraph* had been the central metropolitan organ of his friends and of the democratic party, during the long and bitter canvass which ended in the election of General Jackson, in 1828. Its editor had been gratified with the first rich fruits of victory—the public printing of the two Houses of Congress, the executive patronage, and the organship of the administration. The paper was still (in 1830) in its columns, and to the public eye, the advocate and supporter of General Jackson; but he knew what was to happen, and quietly took his measures to meet an inevitable contingency. In the summer of 1830, a gentleman in one of the public offices showed him a paper, the Frankfort (Kentucky) *Argus*, containing a powerful and spirited review of a certain nullification speech in Congress. He inquired for the author, ascertained him to be Mr. Francis P. Blair—not the editor, but an occasional contributor to the *Argus*—and had him written to on the subject of taking charge of a paper in Washington. The application took Mr. Blair by surprise. He was not thinking of changing his residence and pur-

suits. He was well occupied where he was—clerk of the lucrative office of the State Circuit Court at the capital of the State, salaried president of the Commonwealth Bank (by the election of the legislature), and proprietor of a farm and slaves in that rich State. But he was devoted to General Jackson and his measures, and did not hesitate to relinquish his secure advantages at home to engage in the untried business of editor at Washington. He came—established the *Globe* newspaper—and soon after associated with John C. Rives,—a gentleman worthy of the association and of the confidence of General Jackson and of the democratic party: and under their management, the paper became the efficient and faithful organ of the administration during the whole period of his service, and that of his successor, Mr. Van Buren. It was established in time, and just in time, to meet the advancing events at Washington City. All that General Jackson had foreseen in relation to the conduct of the *Telegraph*, and all that had been communicated to him through Mr. Duncanson, came to pass: and he found himself, early in the first term of his administration, engaged in a triple war—with nullification, the Bank of the United States, and the whig party:—and must have been without defence or support from the newspaper press at Washington had it not been for his foresight in establishing the *Globe*.

CHAPTER XLIV.

LIMITATION OF PUBLIC LAND SALES. SUSPENSION OF SURVEYS. ABOLITION OF THE OFFICE OF SURVEYOR GENERAL. ORIGIN OF THE UNITED STATES LAND SYSTEM. AUTHORSHIP OF THE ANTI-SLAVERY ORDINANCE OF 1778. SLAVERY CONTROVERSY. PROTECTIVE TARIFF. INCEPTION OF THE DOCTRINE OF NULLIFICATION.

At the commencement of the session 1829–'30, Mr. Foot, of Connecticut, submitted in the Senate a resolution of inquiry which excited much feeling among the western members of that body. It was a proposition to inquire into the expediency of limiting the sales of the public lands to those then in market—to suspend the surveys of the public lands—and to abolish the office of Surveyor General. The effect of such a resolution, if sanctioned upon inquiry and carried into legislative effect, would have been to check emigration to the new States in the West—to check the growth and settlement of these States and territories—and to deliver up large portions of them to the dominion of wild beasts. In that sense it was immediately taken up by myself, and other western members, and treated as an injurious proposition—insulting as well as injurious—and not fit to be considered by a committee, much less to be reported upon and adopted. I opened the debate against it in a speech, of which the following is an extract:

"Mr. Benton disclaimed all intention of having any thing to do with the motives of the mover of the resolution: he took it according to its effect and operation, and conceiving this to be eminently injurious to the rights and interests of the new States and Territories, he should justify the view which he had taken, and the vote he intended to give, by an exposition of facts and reasons which would show the disastrous nature of the practical effects of this resolution.

"On the first branch of these effects—checking emigration to the West—it is clear, that, if the sales are limited to the lands now in market, emigration will cease to flow; for these lands are not of a character to attract people at a distance. In Missouri they are the refuse of forty years picking under the Spanish Government, and twenty more under the Government of the United States. The character and value of this refuse had been shown, officially, in the reports of the Registers and Receivers, made in obedience to a call from the Senate. Other gentlemen would show what was said of it in their respective States; he would confine himself to his own, to the State of Missouri, and show it to be miserable indeed. The St. Louis District, containing two and a quarter millions of acres, was estimated at an average value of fifteen cents per acre; the Cape Girardeau District, containing four and a half millions of acres, was estimated at twelve and a half cents per acre; the Western District, containing one million and three quarters of acres, was estimated at sixty-two and a half cents; from the other two districts there was no intelligent or pertinent return; but assuming them to be equal to the Western District, and the average value of the lands they contain would be only one half the amount of the present minimum price. This being the state of the lands in Missouri which would be subject to sale under the operation of this resolution, no emigrants would be attracted to them. Persons who remove to new countries want new lands, first choices; and if they cannot get these, they have no sufficient inducement to move.

"The second ill effect to result from this resolution, supposing it to ripen into the measures which it implies to be necessary would be in

limiting the settlements in the new States and Territories. This limitation of settlement would be the inevitable effect of confining the sales to the lands now in market. These lands in Missouri, only amount to one third of the State. By consequence, only one third could be settled. Two thirds of the State would remain without inhabitants; the resolution says, for 'a certain period,' and the gentlemen, in their speeches, expound this certain period to be seventy-two years. They say seventy-two millions of acres are now in market; that we sell but one million a year; therefore, we have enough to supply the demand for seventy-two years. It does not enter their heads to consider that, if the price was adapted to the value, all this seventy-two millions that is fit for cultivation would be sold immediately. They must go on at a million a year for seventy-two years, the Scripture term of the life of man—a long period in the age of a nation; the exact period of the Babylonish captivity—a long and sorrowful period in the history of the Jews; and not less long nor less sorrowful in the history of the West, if this resolution should take effect.

"The third point of objection is, that it would deliver up large portions of new States and Territories to the dominion of wild beasts. In Missouri, this surrender would be equal to two-thirds of the State, comprising about forty thousand square miles, covering the whole valley of the Osage River, besides many other parts, and approaching within a dozen miles of the centre and capital of the State. All this would be delivered up to wild beasts: for the Indian title is extinguished, and the Indians gone; the white people would be excluded from it; beasts alone would take it; and all this in violation of the Divine command to replenish the earth, to increase and multiply upon it, and to have dominion over the beasts of the forest, the birds of the air, the fish in the waters, and the creeping things of the earth.

"The fourth point of objection is, in the removal of the land records—the natural effect of abolishing all the offices of the Surveyors General. These offices are five in number. It is proposed to abolish them all, and the reason assigned in debate is, that they are sinecures; that is to say, offices which have revenues and no employment. This is the description of a sinecure. We have one of these offices in Missouri, and I know something of it. The Surveyor General, Colonel McRee, in point of fidelity to his trust, belongs to the school of Nathaniel Macon; in point of science and intelligence, he belongs to the first order of men that Europe or America contains. He and his clerks carry labor and drudgery to the ultimate point of human exertion, and still fall short of the task before them; and this is an office which it is proposed to abolish under the notion of a sinecure, as an office with revenues, and without employment. The abolition of these offices would involve the necessity of removing all their records, and thus depriving the country of all the evidences of the foundations of all the land titles. This would be sweeping work; but the gentleman's plan would be incomplete without including the General Land Office in this city, the principal business of which is to superintend the five Surveyor General's offices, and for which there could be but little use after they were abolished.

"These are the practical effects of the resolution. Emigration to the new States checked their settlement limited; a large portion of their surface delivered up to the dominion of beasts; the land records removed. Such are the injuries to be inflicted upon the new States, and we, the senators from those States, are called upon to vote in favor of the resolution which proposes to inquire into the expediency of committing all these enormities! I, for one, will not do it. I will vote for no such inquiry. I would as soon vote for inquiries into the expediency of conflagrating cities, of devastating provinces, and of submerging fruitful lands under the waves of the ocean.

"I take my stand upon a great moral principle. that it is never right to inquire into the expediency of doing wrong.

"The proposed inquiry is to do wrong; to inflict unmixed, unmitigated evil upon the new States and Territories. Such inquiries are not to be tolerated. Courts of law will not sustain actions which have immoral foundations; legislative bodies should not sustain inquiries which have iniquitous conclusions. Courts of law make it an object to give public satisfaction in the administration of justice; legislative bodies should consult the public tranquillity in the prosecution of their measures. They should not alarm and agitate the country; yet, this inquiry, if it goes on, will give the greatest dissatisfaction to the new States in the West and South. It will alarm and agitate them, and ought to do it. It will connect itself with other inquiries going on elsewhere—in the other end of this building—in the House of Representatives—to make the new States a source of revenue to the old ones, to deliver them up to a new set of masters, to throw them as grapes into the wine press, to be trod and squeezed as long as one drop of juice could be pressed from their hulls. These measures will go together; and if that resolution passes, and this one passes, the transition will be easy and natural, from dividing the money after the lands are sold, to divide the lands before they are sold, and then to renting the land and drawing an annual income, instead of selling it for a price in hand. The signs are portentous; the crisis is alarming; it is time for the new States to wake up to their danger, and to prepare for a struggle which carries ruin and disgrace to them, if the issue is against them."

The debate spread, and took an acrimonious turn, and sectional, imputing to the quarter of the Union from which it came an old, and early policy to check the growth of the West at the

outset by proposing to limit the sale of the western lands to a "clean riddance" as they went—selling no tract in advance until all in the rear was sold out. It so happened that the first ordinance reported for the sale and survey of western lands in the Congress of the Confederation, (1785,) contained a provision to this effect; and came from a committee strongly Northern—two to one, eight against four: and was struck out in the House on the motion of southern members, supported by the whole power of the South. I gave this account of the circumstance:

"The ordinance reported by the committee, contained the plan of surveying the public lands, which has since been followed. It adopted the scientific principle of ranges of townships, which has been continued ever since, and found so beneficial in a variety of ways to the country. The ranges began on the Pennsylvania line, and proceeded west to the Mississippi; and since the acquisition of Louisiana, they have proceeded west of that river; the townships began upon the Ohio River, and proceeded north to the Lakes. The townships were divided into sections of a mile square, six hundred and forty acres each; and the minimum price was fixed at one dollar per acre, and not less than a section to be sold together. This is the outline of the present plan of sales and surveys; and, with the modifications it has received, and may receive, in graduating the price of the land to the quality, the plan is excellent. But a principle was incorporated in the ordinance of the most fatal character. It was, that each township should be sold out complete before any land could be offered in the next one! This was tantamount to a law that the lands should not be sold; that the country should not be settled: for it is certain that every township, or almost every one, would contain land unfit for cultivation, and for which no person would give six hundred and forty dollars for six hundred and forty acres. The effect of such a provision may be judged by the fact that above one hundred thousand acres remain to this day unsold in the first land district; the district of Steubenville, in Ohio, which included the first range and first township. If that provision had remained in the ordinance, the settlements would not yet have got out of sight of the Pennsylvania line. It was an unjust and preposterous provision. It required the people to take the country clean before them; buy all as they went; mountains, hills, and swamps; rocks, glens, and prairies. They were to make clean work, as the giant Polyphemus did when he ate up the companions of Ulysses:

'No entrails, blood, nor solid bone remains.'

Nothing could be more iniquitous than such a provision. It was like requiring your guest to eat all the bones on his plate before he should have more meat. To say that township No. 1 should be sold out complete before township No. 2 should be offered for sale, was like requiring the bones of the first turkey to be eat up before the breast of the second one should be touched. Yet such was the provision contained in the first ordinance for the sale of the public lands, reported by a committee of twelve, of which eight were from the north and four from the south side of the Potomac. How invincible must have been the determination of some politicians to prevent the settlement of the West, when they would thus counteract the sales of the lands which had just been obtained after years of importunity, for the payment of the public debt!

"When this ordinance was put upon its passage in Congress, two Virginians, whose names, for that act alone, would deserve the lasting gratitude of the West, levelled their blows against the obnoxious provision. Mr. Grayson moved to strike it out, and Mr. Monroe seconded him; and, after an animated and arduous contest, they succeeded. The whole South supported them; not one recreant arm from the South; many scattering members from the North also voted with the South, and in favor of the infant West; proving then, as now, and as it always has been, that the West has true supporters of her rights and interests—unhappily not enough of them—in that quarter of the Union from which the measures have originated that several times threatened to be fatal to her."

Still enlarging its circle, but as yet still confined to the sale and disposition of the public lands, the debate went on to discuss the propriety of selling them to settlers at auction prices, and at an abitrary minimum for all qualities, and a refusal of donations; and in this hard policy the North was again considered as the exacting part of the Union—the South as the favorer of liberal terms, and the generous dispenser of gratuitous grants to the settlers in the new States and Territories. On this point, Mr. Hayne, of South Carolina, thus expressed himself:

"The payment of 'a penny,' or a 'pepper corn,' was the stipulated price which our fathers along the whole Atlantic coast, now composing the old thirteen States, paid for their lands; and even when conditions, seemingly more substantial, were annexed to the grants; such for instance as 'settlement and cultivation;' these were considered as substantially complied with, by the cutting down a few trees and erecting a log cabin—the work of only a few days. Even these conditions very soon came to be considered as merely nominal, and were never required to be pursued, in order to vest in the grantee the fee simple of the soil. Such was the system under which this country was originally settled, and under which the thirteen colonies flourished and grew up to that early and vigorous manhood, which enabled them in a few years to achieve their independence;

and I beg gentlemen to recollect, and note the fact, that, while they paid substantially nothing to the mother country, the whole profits of their industry were suffered to remain in their own hands. Now, what, let us inquire, was the reason which has induced all nations to adopt this system in the settlement of new countries? Can it be any other than this; that it affords the only certain means of building up in a wilderness, great and prosperous communities? Was not that policy founded on the universal belief, that the conquest of a new country, the driving out "the savage beasts and still more savage men," cutting down and subduing the forest, and encountering all the hardships and privations necessarily incident to the conversion of the wilderness into cultivated fields, was worth the fee simple of the soil? And was it not believed that the mother country found ample remuneration for the value of the land so granted, in the additions to her power and the new sources of commerce and of wealth, furnished by prosperous and populous States? Now, sir, I submit to the candid consideration of gentlemen, whether the policy so diametrically opposite to this, which has been invariably pursued by the United States towards the new States in the West has been quite so just and liberal, as we have been accustomed to believe. Certain it is, that the British colonies to the north of us, and the Spanish and French to the south and west, have been fostered and reared up under a very different system. Lands, which had been for fifty or a hundred years open to every settler, without any charge beyond the expense of the survey, were, the moment they fell into the hands of the United States, held up for sale at the highest price that a public auction, at the most favorable seasons, and not unfrequently a spirit of the wildest competition, could produce; with a limitation that they should never be sold below a certain minimum price; thus making it, as it would seem, the cardinal point of our policy, not to settle the country, and facilitate the formation of new States, but to fill our coffers by coining our lands into gold."

The debate was taking a turn which was foreign to the expectations of the mover of the resolution, and which, in leading to sectional criminations, would only inflame feelings without leading to any practical result. Mr. Webster saw this; and to get rid of the whole subject, moved its indefinite postponement; but in arguing his motion he delivered a speech which introduced new topics, and greatly enlarged the scope, and extended the length of the debate which he proposed to terminate. One of these new topics referred to the authorship, and the merit of passing the famous ordinance of 1787, for the government of the Northwestern Territory, and especially in relation to the antislavery clause which that ordinance contained. Mr. Webster claimed the merit of this authorship for Mr. Nathan Dane—an eminent jurist of Massachusetts, and avowed that "*it was carried by the North, and by the North alone.*" I replied, claiming the authorship for Mr. Jefferson, and showing from the Journals that he (Mr. Jefferson) brought the measure into Congress in the year 1784 (the 19th of April of that year), as chairman of a committee, with the antislavery clause in it, which Mr. Speight, of North Carolina, moved to strike out; and it was struck out—the three Southern States present voting for the striking out, because the clause did not then contain the provision in favor of the recovery of fugitive slaves, which was afterwards ingrafted upon it. Mr. Webster says it was struck out because "nine States" did not vote for its retention. That is an error arising from confounding the powers of the confederation. Nine States were only required to concur in measures of the highest import, as declaring war, making peace, negotiating treaties, &c.,—and in all ordinary legislation the concurrence of a bare majority (seven) was sufficient; and in this case there were only six States voting for the retention, New Jersey being erroneously counted by Mr. Webster to make seven. If she had voted the number would have been seven, and the clause would have stood. He was led into the error by seeing the name of Mr. Dick appearing in the call for New Jersey; but New Jersey was not present as a State, being represented by only one member, and it requiring two to constitute the presence of a State. Mr. Dick was indulged with putting his name on the Journal, but his vote was not counted. Mr. Webster says the ordinance reported by Mr. Jefferson in 1784. did not pass into a law. This is a mistake again. It did pass; and that within five days after the antislavery clause was struck out—and that without any attempt to renew that clause, although the competent number (seven) of non-slaveholding States were present—the colleague of Mr. Dick having joined him, and constituted the presence of New Jersey. Two years afterwards, in July 1787, the ordinance was passed over again, as it now stands, and was preeminently the work of the South. The ordinance, as it now stands, was reported by a committee of five members, of whom three were from slaveholding States, and two (and one of

them the chairman) were from Virginia alone. It received its first reading the day it was reported—its second reading the next day, when one other State had appeared—the third reading on the day ensuing; going through all the forms of legislation, and becoming a law in three days—receiving the votes of the eight States present, and the vote of every member of each State, except one; and that one from a free State north of the Potomac. These details I verified by producing the Journals, and showed under the dates of July 11th, 1787, and July 12th and 13th, the votes actually given for the ordinance. The same vote repealed the ordinance (Mr. Jefferson's) of 1784. I read in the Senate the passages from the Journal of the Congress of the confederation, the passages which showed these votes, and incorporated into the speech which I published, the extract from the Journal which I produced; and now incorporate the same in this work, that the authorship of that ordinance of 1787, and its passage through the old Congress, may be known in all time to come as the indisputable work, both in its conception and consummation, of the South. This is the extract:

THE JOURNAL.

Wednesday, July 11th, 1787.

"Congress assembled: Present, the seven States above mentioned." (Massachusetts, New York, New Jersey, Virginia, North Carolina, South Carolina, and Georgia—7.)

"The Committee, consisting of Mr. Carrington (of Virginia), Mr. Dane (of Massachusetts), Mr. R. H. Lee (of Virginia), Mr. Kean (of South Carolina), and Mr. Smith (of New York), to whom was referred the report of a committee touching the temporary government of the Western Territory, reported an ordinance for the government of the Territory of the United States northwest of the river Ohio; which was read a first time.

"Ordered, That to-morrow be assigned for the second reading."

"*Thursday, July 12th*, 1787.

"Congress assembled: Present, Massachusetts, New York, New Jersey, Delaware, Virginia, North Carolina, South Carolina, and Georgia—(8.)

"According to order, the ordinance for the government of the Territory of the United States northwest of the river Ohio, was read a second time.

"Ordered, That to-morrow be assigned for the third reading of said ordinance."

"*Friday, July 13th*, 1787.

"Congress assembled: Present, as yesterday.

"According to order, the ordinance for the government of the Territory of the United States northwest of the river Ohio, was read a third time, and passed as follows."

[Here follows the whole ordinance, in the very words in which it now appears among the laws of the United States, with the non-slavery clause, the provisions in favor of schools and education, against impairing the obligation of contracts, laying the foundation and security of all these stipulations in compact, in favor of restoring fugitives from service, and repealing the ordinance of 23d of April, 1784—the one reported by Mr. Jefferson.]

"On passing the above ordinance, the yeas and nays being required by Mr. Yates:

Massachusetts—Mr. Holten, aye; Mr. Dane, aye.

New York—Mr. Smith, aye; Mr. Yates, no; Mr. Harring, aye.

New Jersey—Mr. Clarke, aye; Mr. Scheurman, aye.

Delaware—Mr. Kearney, aye; Mr. Mitchell, aye.

Virginia—Mr. Grayson, aye; Mr. R. H. Lee, aye; Mr. Carrington, aye.

North Carolina—Mr. Blount, aye; Mr. Hawkins, aye.

South Carolina—Mr. Kean, aye; Mr. Huger, aye.

Georgia—Mr. Few, aye; Mr. Pierce, aye.

So it was resolved in the affirmative." (Page 754, volume 4.)

The bare reading of these passages from the Journals of the Congress of the old confederation, shows how erroneous Mr. Webster was in these portions of his speech:

"At the foundation of the constitution of these new northwestern States, we are accustomed, sir, to praise the lawgivers of antiquity; we help to perpetuate the fame of Solon and Lycurgus; but I doubt whether one single law of any lawgiver, ancient or modern, has produced effects of more distinct, marked, and lasting character, than the ordinance of '87. That instrument, was drawn by Nathan Dane, then, and now, a citizen of Massachusetts. It was adopted, as I think I have understood, without the slightest alteration; and certainly it has happened to few men to be the authors of a political measure of more large and enduring consequence. It fixed, for ever, the character of the population in the vast regions northwest of the Ohio, by excluding from them involuntary servitude. It impressed on the soil itself, while it was yet a wilderness, an incapacity to bear up any other than free men. It laid the interdict against personal servitude, in original compact, not only deeper than all local law, but deeper, also, than all local

constitutions. Under the circumstances then existing, I look upon this original and seasonable provision, as a real good attained. We see its consequences at this moment, and we shall never cease to see them, perhaps, while the Ohio shall flow. It was a great and salutary measure of prevention. Sir, I should fear the rebuke of no intelligent gentleman of Kentucky, were I to ask whether if such an ordinance could have been applied to his own State, while it yet was a wilderness, and before Boon had passed the gap of the Alleghany, he does not suppose it would have contributed to the ultimate greatness of that commonwealth? It is, at any rate, not to be doubted, that where it did apply it has produced an effect not easily to be described, or measured in the growth of the States, and the extent and increase of their population. Now, sir, this great measure again was carried by the north, and by the north alone. There were, indeed, individuals elsewhere favorable to it; but it was supported as a measure, entirely by the votes of the northern States. If New England had been governed by the narrow and selfish views now ascribed to her, this very measure was, of all others, the best calculated to thwart her purposes. It was, of all things, the very means of rendering certain a vast emigration from her own population to the west. She looked to that consequence only to disregard it. She deemed the regulation a most useful one to the States that would spring up on the territory, and advantageous to the country at large. She adhered to the principle of it perseveringly, year after year, until it was finally accomplished.

"An attempt has been made to transfer, from the North to the South, the honor of this exclusion of slavery from the northwestern territory. The journal, without argument or comment, refutes such attempt. The cession by Virginia was made, March, 1784. On the 19th of April following, a committee, consisting of Messrs. Jefferson, Chase, and Howell, reported a plan for a temporary government of the territory, in which was this article: 'that, after the year 1800, there shall be neither slavery, nor involuntary servitude in any of the said States, otherwise than in punishment of crimes, whereof the party shall have been convicted.' Mr. Speight, of North Carolina, moved to strike out this paragraph. The question was put, according to the form then practised: 'Shall these words stand, as part of the plan,' &c.? New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania —seven States, voted in the affirmative. Maryland, Virginia, and South Carolina, in the negative. North Carolina was divided. As the consent of nine States was necessary, the words could not stand, and were struck out accordingly. Mr. Jefferson voted for the clause, but was overruled by his colleagues.

"In March, the next year [1785], Mr. King of Massachusetts, seconded by Mr. Ellery of Rhode Island, proposed the formerly rejected article, with this addition: '*And that this regulation shall be an article of compact, and remain a fundamental principle of the constitutions between the thirteen original States, and each of the States described in the resolve,*' &c. On this clause, which provided the adequate and thorough security, the eight northern States at that time voted affirmatively, and the four southern States negatively. The votes of nine States were not yet obtained, and thus, the provision was again rejected by the southern States. The perseverance of the north held out, and two years afterwards the object was attained."

This is shown to be all erroneous in relation to this ordinance. It was not first drawn by Mr. Dane, but by Mr. Jefferson, and that nearly two years before Mr. Dane came into Congress. It was not passed by the North alone, but equally by the South—there being but eight States present at the passing, and they equally of the North and the South—and the South voting unanimously for it, both as States and as individual members, while the North had one member against it. It was not baffled two years for the want of nine States; if so, and nine States had been necessary, it would not have been passed when it was, and never by free State votes alone. There were but eight States (both Northern and Southern) present at the passing; and there were not nine free States in the confederacy at that time. There were but thirteen in all: and the half of these, as nearly as thirteen can be divided, were slave States. The fact is, that the South only delayed its vote for the antislavery clause in the ordinance for want of the provision in favor of recovering fugitives from service. As soon as that was added, she took the lead again for the ordinance—a fact which gives great emphasis to the corresponding provision in the constitution.

Mr. Webster was present when I read these extracts, and said nothing. He neither reaffirmed his previous statement, that Mr. Dane was the author of the ordinance, and that "*this great measure was carried by the North, and by the North alone.*" He said nothing; nor did he afterwards correct the errors of his speech: and they now remain in it; and have given occasion to a very authentic newspaper contradiction of his statement, copied, like my statement to the Senate, from the Journals of the old Congress. It was by Edward Coles, Esq., formerly of Virginia, and private secretary to President Madison, afterwards governor of the State of Illinois, and now a citizen of Pennsylvania, resident of

Philadelphia. He made his correction through the National Intelligencer, of Washington City; and being drawn from the same sources it agrees entirely with my own. And thus the South is entitled to the credit of originating and passing this great measure—a circumstance to be remembered and quoted, as showing the South at that time in taking the lead in curtailing and restricting the existence of slavery. The cause of Mr. Webster's mistakes may be found in the fact that the ordinance was three times before the old Congress, and once (the third time) in the hands of a committee of which Mr. Dane was a member. It was first reported by a committee of three (April, 1784) of which two were from slave states, (Mr. Jefferson of Virginia and Mr. Chase of Maryland,) Mr. Howard, of Rhode Island; and this, as stated, was nearly two years before Mr. Dane became a member. The antislavery clause was then dropped, there being but six States for it. The next year, the antislavery clause, with some modification, was moved by Mr. Rufus King, and sent as a proposition to a committee: but did not ripen into a law. Afterwards the whole ordinance was passed as it now stands, upon the report of a committee of six, of whom Mr. Dane was one; but not the chairman.

Closely connected with this question of authorship to which Mr. Webster's remarks give rise, was another which excited some warm discussion —the topic of slavery—and the effect of its existence or non-existence in different States. Kentucky and Ohio were taken for examples, and the superior improvement and population of Ohio were attributed to its exemption from the evils of slavery. This was an excitable subject, and the more so because the wounds of the Missouri controversy, in which the North was the undisputed aggressor, were still tender, and hardly scarred over. Mr. Hayne answered with warmth and resented as a reflection upon the slave States this disadvantageous comparison. I replied to the same topic myself, and said:

"I was on the subject of slavery, as connected with the Missouri question, when last on the floor. The senator from South Carolina [Mr. Hayne] could see nothing in the question before the Senate, nor in any previous part of the debate, to justify the introduction of that topic. Neither could I. He thought he saw the ghost of the Missouri question brought in among us. So did I. He was astonished at the apparition. It was not: for a close observance of the signs in the West had prepared me for this development from the East. I was well prepared for that invective against slavery, and for that amplification of the blessings of exemption from slavery, exemplified in the condition of Ohio, which the senator from Massachusetts indulged in, and which the object in view required to be derived from the Northeast. I cut the root of that derivation by reading a passage from the Journals of the old Congress; but this will not prevent the invective and encomium from going forth to do their office; nor obliterate the line which was drawn between the free State of Ohio and the slave State of Kentucky. If the only results of this invective and encomium were to exalt still higher the oratorical fame of the speaker, I should spend not a moment in remarking upon them. But it is not to be forgotten that the terrible Missouri agitation took its rise from the "substance of two speeches" delivered on this floor; and since that time, antislavery speeches, coming from the same political and geographical quarter, are not to be disregarded here. What was said upon that topic was certainly intended for the north side of the Potomac and Ohio; to the people, then, of that division of the Union, I wish to address myself, and to disabuse them of some erroneous impressions. To them I can truly say, that slavery, in the abstract, has but few advocates or defenders in the slave-holding States, and that slavery as it is, an hereditary institution descended upon us from our ancestors, would have fewer advocates among us than it has, if those who have nothing to do with the subject would only let us alone. The sentiment in favor of slavery was much weaker before those intermeddlers began their operations than it is at present. The views of leading men in the North and the South were indisputably the same in the earlier periods of our government. Of this our legislative history contains the highest proof. The foreign-slave trade was prohibited in Virginia, as soon as the Revolution began. It was one of her first acts of sovereignty. In the convention of that State which adopted the federal constitution, it was an objection to that instrument that it tolerated the African slave-trade for twenty years. Nothing that has appeared since has surpassed the indignant denunciations of this traffic by Patrick Henry, George Mason, and others, in that convention.

"Sir, I regard with admiration, that is to say, with wonder, the sublime morality of those who cannot bear the abstract contemplation of slavery, at the distance of five hundred or a thousand miles off. It is entirely above, that is to say, it affects a vast superiority over the morality of the primitive Christians, the apostles of Christ, and Christ himself. Christ and the apostles appeared in a province of the Roman empire, when that empire was called the Roman world, and that world was filled with slaves. Forty millions was the estimated number, being one-fourth of the whole population. Single individuals held twenty thousand slaves. A freed man, one who had himself been a slave, died the

possessor of four thousand—such were the numbers. The rights of the owners over this multitude of human beings was that of life and death, without protection from law or mitigation from public sentiment. The scourge, the cross, the fish-pond, the den of the wild beast, and the arena of of the gladiator, was the lot of the slave, upon the slightest expression of the master's will. A law of incredible atrocity made all slaves responsible with their own lives for the life of their master; it was the law that condemned the whole household of slaves to death, in case of the assassination of the master—a law under which as many as four hundred have been executed at a time. And these slaves were the white people of Europe and of Asia Minor, the Greeks and other nations, from whom the present inhabitants of the world derive the most valuable productions of the human mind. Christ saw all this—the number of the slaves—their hapless condition—and their white color, which was the same with his own; yet he said nothing against slavery; he preached no doctrines which led to insurrection and massacre; none which, in their application to the state of things in our country, would authorize an inferior race of blacks to exterminate that superior race of whites, in whose ranks he himself appeared upon earth. He preached no such doctrines, but those of a contrary tenor, which inculcated the duty of fidelity and obedience on the part of the slave—humanity and kindness on the part of the master. His apostles did the same. St Paul sent back a runaway slave, Onesimus, to his owner, with a letter of apology and supplication. He was not the man to harbor a runaway, much less to entice him from his master; and, least of all, to excite an insurrection."

This allusion to the Missouri controversy, and invective against the free States for their part in it, brought a reply from Mr. Webster, showing what their conduct had been at the first introduction of the slavery topic in the Congress of the United States, and that they totally refused to interfere between master and slave in any way whatever. This is what he said:

"When the present constitution was submitted for the ratification of the people, there were those who imagined that the powers of the government which it proposed to establish might, perhaps, in some possible mode, be exerted in measures tending to the abolition of slavery. This suggestion would, of course, attract much attention in the southern conventions. In that of Virginia, Governor Randolph said:

"'I hope there is none here who, considering the subject in the calm light of philosophy, will make an objection dishonorable to Virginia—that, at the moment they are securing the rights of their citizens, an objection is started, that there is a spark of hope that those unfortunate men now held in bondage may, by the operation of the general government, be made free.'

"At the very first Congress, petitions on the subject were presented, if I mistake not, from different States. The Pennsylvania society for promoting the abolition of slavery, took a lead, and laid before Congress a memorial, praying Congress to promote the abolition by such powers as it possessed. This memorial was referred, in the House of Representatives, to a select committee consisting of Mr. Foster of New Hampshire; Mr. Gerry of Massachusetts, Mr. Huntington of Connecticut; Mr. Lawrence of New-York; Mr. Sinnickson of New Jersey; Mr. Hartley of Pennsylvania, and Mr. Parker of Virginia; all of them, sir, as you will observe, northern men, but the last. This committee made a report, which was committed to a committee of the whole house, and there considered and discussed on several days; and being amended, although in no material respect, it was made to express three distinct propositions on the subject of slavery and the slave-trade. First, in the words of the constitution, that Congress could not, prior to the year 1808, prohibit the migration or importation of such persons as any of the States, then existing, should think proper to admit. Second, that Congress had authority to restrain the citizens of the United States from carrying on the African slave-trade, for the purpose of supplying foreign countries. On this proposition, our laws against those who engage in that traffic, are founded. The third proposition, and that which bears on the present question, was expressed in the following terms:

"'*Resolved*, That Congress have no authority to interfere in the emancipation of slaves, or in the treatment of them in any of the States; it remaining with the several States alone to provide rules and regulations therein, which humanity and true policy may require.'

"This resolution received the sanction of the House of Representatives so early as March, 1790. And now, sir, the honorable member will allow me to remind him, that not only were the select committee who reported the resolution, with a single exception, all northern men, but also that of the members then composing the House of Representatives, a large majority, I believe nearly two thirds, were northern men also.

"The house agreed to insert these resolutions in its journal, and, from that day to this, it has never been maintained or contended that Congress had any authority to regulate, or interfere with, the condition of slaves in the several States. No northern gentleman, to my knowledge, has moved any such question in either house of Congress.

"The fears of the South, whatever fears they might have entertained, were allayed and quieted by this early decision; and so remained, till they were excited afresh, without cause, but for collateral and indirect purposes. When it became necessary, or was thought so, by some political persons, to find an unvarying ground for the ex-

clusion of northern men from confidence and from lead in the affairs of the republic, then, and not till then, the cry was raised, and the feeling industriously excited, that the influence of northern men in the public councils would endanger the relation of master and slave. For myself I claim no other merit than that this gross and enormous injustice towards the whole North, has not wrought upon me to change my opinions, or my political conduct. I hope I am above violating my principles, even under the smart of injury and false imputations. Unjust suspicions and undeserved reproach, whatever pain I may experience from them, will not induce me, I trust, nevertheless, to overstep the limits of constitutional duty, or to encroach on the rights of others. The domestic slavery of the South I leave where I find it—in the hands of their own governments. It is their affair, not mine. Nor do I complain of the peculiar effect which the magnitude of that population has had in the distribution of power under this federal government. We know, sir, that the representation of the states in the other house is not equal. We know that great advantage, in that respect, is enjoyed by the slaveholding States; and we know, too, that the intended equivalent for that advantage, that is to say, the imposition of direct taxes in the same ratio, has become merely nominal; the habit of the government being almost invariably to collect its revenues from other sources, and in other modes. Nevertheless, I do not complain: nor would I countenance any movement to alter this arrangement of representation. It is the original bargain, the compact—let it stand: let the advantage of it be fully enjoyed. The Union itself is too full of benefit to be hazarded in propositions for changing its original basis. I go for the constitution as it is, and for the Union as it is. But I am resolved not to submit, in silence, to accusations, either against myself individually, or against the North, wholly unfounded and unjust; accusations which impute to us a disposition to evade the constitutional compact, and to extend the power of the government over the internal laws and domestic condition of the States. All such accusations, wherever and whenever made, all insinuations of the existance of any such purposes, I know, and feel to be groundless and injurious. And we must confide in southern gentlemen themselves; we must trust to those whose integrity of heart and magnanimity of feeling will lead them to a desire to maintain and disseminate truth, and who possess the means of its diffusion with the southern public; we must leave it to them to disabuse that public of its prejudices. But, in the mean time, for my own part, I shall continue to act justly, whether those towards whom justice is exercised, receive it with candor or with contumely."

This is what Mr. Webster said on the subject of slavery; and although it was in reply to an invective of my own, excited by the recent agitation of the Missouri question, I made no answer impugning its correctness; and must add that I never saw any thing in Mr. Webster inconsistent with what he then said; and believe that the same resolves could have been passed in the same way at any time during the thirty years that I was in Congress.

But the topic which became the leading feature of the whole debate; and gave it an interest which cannot die, was that of nullification—the assumed right of a state to annul an act of Congress—then first broached in our national legislature—and in the discussion of which Mr. Webster and Mr. Hayne were the champion speakers on opposite sides—the latter understood to be speaking the sentiments of the Vice-President, Mr. Calhoun. This new turn in the debate was thus brought about: Mr. Hayne, in the sectional nature of the discussion which had grown up, made allusions to the conduct of New England during the war of 1812; and especially to the assemblage known as the Hartford Convention, and to which designs unfriendly to the Union had been attributed. This gave Mr. Webster the rights both of defence and of retaliation; and he found material for the first in the character of the assemblage, and for the second in the public meetings which had taken place in South Carolina on the subject of the tariff—and at which resolves were passed, and propositions adopted significant of resistance to the act; and, consequently, of disloyalty to the Union. He, in his turn, made allusions to these resolves and propositions, until he drew out Mr. Hayne into their defence, and into an avowal of what has since obtained the current name of "*Nullification;*" although at the time (during the debate) it did not at all strike me as going the length which it afterwards avowed; nor have I ever believed that Mr. Hayne contemplated disunion, in any contingency, as one of its results. In entering upon the argument, Mr. Webster first summed up the doctrine, as he conceived it to be avowed, thus:

"I understand the honorable gentleman from South Carolina to maintain, that it is a right of the State legislature to interfere, whenever, in their judgment, this government transcends its constitutional limits, and to arrest the operation of its laws.

"I understand him to maintain this right, as a right existing under the constitution; not as a right to overthrow it, on the ground of extreme

necessity, such as would justify violent revolution.

"I understand him to maintain an authority, on the part of the States, thus to interfere, for the purpose of correcting the exercise of power by the general government, of checking it, and of compelling it to conform to their opinion of the extent of its powers.

"I understand him to maintain that the ultimate power of judging of the constitutional extent of its own authority is not lodged exclusively in the general government, or any branch of it; but that, on the contrary, the States may lawfully decide for themselves, and each State for itself, whether, in a given case, the act of the general government transcends its power.

"I understand him to insist that, if the exigency of the case, in the opinion of any State government, require it, such State government may, by its own sovereign authority, annul an act of the general government, which it deems plainly and palpably unconstitutional."

Mr. Hayne, evidently unprepared to admit, or fully deny, the propositions as broadly laid down, had recourse to a statement of his own; and, adopted for that purpose, the third resolve of the Virginia resolutions of the year 1798—reaffirmed in 1799. He rose immediately and said that, for the purpose of being clearly understood, he would state that his proposition was in the words of the Virginia resolution; and read it—

"That this Assembly doth explicitly and peremptorily declare, that it views the powers of the federal government as resulting from the compact, to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no farther valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the States who are parties thereto have the right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties, appertaining to them."

Thus were the propositions stated, and argued —each speaker taking his own proposition for his text; which in the end, (and as the Virginia resolutions turned out to be understood in the South Carolina sense) came to be identical. Mr. Webster, at one point, giving to his argument a practical form, and showing what the South Carolina doctrine would have accomplished in New England if it had been acted upon by the Hartford Convention, said:

"Let me here say, sir, that, if the gentleman's doctrine had been received and acted upon in New England, in the times of the embargo and non-intercourse, we should probably not now have been here. The government would, very likely, have gone to pieces, and crumbled into dust. No stronger case can ever arise than existed under those laws; no States can ever entertain a clearer conviction than the New England States then entertained; and if they had been under the influence of that heresy of opinion, as I must call it, which the honorable member espouses, this Union would, in all probability, have been scattered to the four winds. I ask the gentleman, therefore, to apply his principles to that case; I ask him to come forth and declare, whether, in his opinion, the New England States would have been justified in interfering to break up the embargo system, under the conscientious opinions which they held upon it? Had they a right to annul that law? Does he admit or deny? If that which is thought palpably unconstitutional in South Carolina, justifies that State in arresting the progress of the law, tell me, whether that which was thought palpably unconstitutional also in Massachusetts, would have justified her in doing the same thing? Sir, I deny the whole doctrine. It has not a foot of ground in the constitution to stand on. No public man of reputation ever advanced it in Massachusetts, in the warmest times, or could maintain himself upon it there at any time."

He argued that the doctrine had no foundation either in the constitution, or in the Virginia resolutions—that the constitution makes the federal government act upon citizens within the States, and not upon the States themselves, as in the old confederation: that within their constitutional limits the laws of Congress were supreme—and that it was treasonable to resist them with force: and that the question of their constitutionality was to be decided by the Supreme Court. On this point, he said:

"The people, then, sir, erected this government. They gave it a constitution; and in that constitution they have enumerated the powers which they bestow on it. They have made it a limited government. They have defined its authority. They have restrained it to the exercise of such powers as are granted; and all others, they declare, are reserved to the States or to the people. But, sir, they have not stopped here. If they had, they would have accomplished but half their work. No definition can be so clear as to avoid possibility of doubt; no limitation so precise as to exclude all uncertainty. Who then shall construe this grant of the people? Who shall interpret their will, where it may be supposed they have left it doubtful? With whom do they repose this ultimate right of deciding on the powers of the government? Sir, they have settled all this in the fullest manner. They have left it with the government it-

self, in its appropriate branches. Sir, the very chief end, the main design, for which the whole constitution was framed and adopted was, to establish a government that should not be obliged to act through State agency, or depend on State opinion and State discretion. The people had had quite enough of that kind of government under the confederacy. Under that system, the legal action, the application of law to individuals, belonged exclusively to the States. Congress could only recommend; their acts were not of binding force, till the States had adopted and sanctioned them. Are we in that condition still? Are we yet at the mercy of State discretion, and State construction? Sir, if we are, then vain will be our attempt to maintain the constitution under which we sit. But, sir, the people have wisely provided, in the constitution itself, a proper, suitable mode and tribunal for settling questions of constitutional law. There are, in the constitution, grants of powers to Congress, and restrictions on these powers. There are, also, prohibitions on the States. Some authority must, therefore, necessarily exist, having the ultimate jurisdiction to fix and ascertain the interpretation of these grants, restrictions, and prohibitions. The constitution has, itself, pointed out, ordained, and established, that authority. How has it accomplished this great and essential end? By declaring, sir, that 'the constitution, and the laws of the United States made in pursuance thereof, shall be the supreme law of the land, any thing in the constitution or laws of any State to the contrary notwithstanding.'

"This, sir, was the first great step. By this, the supremacy of the constitution and laws of the United States is declared. The people so will it. No State law is to be valid which comes in conflict with the constitution or any law of the United States. But who shall decide this question of interference? To whom lies the last appeal? This, sir, the constitution itself decides also, by declaring 'that the judicial power shall extend to all cases arising under the constitution and laws of the United States.' These two provisions, sir, cover the whole ground. They are, in truth, the key-stone of the arch. With these, it is a constitution; without them it is a confederacy. In pursuance of these clear and express provisions, Congress established, at its very first session, in the Judicial Act, a mode for carrying them into full effect, and for bringing all questions of constitutional power to the final decision of the Supreme Court. It then, sir, became a government. It then had the means of self-protection; and, but for this, it would, in all probability, have been now among things which are past. Having constituted the government, and declared its powers, the people have farther said, that, since somebody must decide on the extent of these powers, the government shall itself decide; subject, always, like other popular governments, to its responsibility to the people. And now, sir, I repeat, how is it that a State legislature acquires any power to interfere? Who or what gives them the right to say to the people, 'we, who are your agents and servants for one purpose, will undertake to decide that your other agents and servants, appointed by you for another purpose, have transcended the authority you gave them?' The reply would be, I think, not impertinent: who made you judge over another's servants? To their own masters they stand or fall."

With respect to the Virginia resolutions, on which Mr. Hayne relied, Mr. Webster disputed the interpretation put upon them—claimed for them an innocent and justifiable meaning—and exempted Mr. Madison from the suspicion of having penned a resolution asserting the right of a State legislature to annul an act of Congress, and thereby putting it in the power of one State to destroy a form of government which he had just labored so hard to establish. To this effect he said:

"I wish now, sir, to make a remark upon the Virginia resolutions of 1798. I cannot undertake to say how these resolutions were understood by those who passed them. Their language is not a little indefinite. In the case of the exercise, by Congress, of a dangerous power, not granted to them, the resolutions assert the right, on the part of the State, to interfere, and arrest the progress of the evil. This is susceptible of more than one interpretation. It may mean no more than that the States may interfere by complaint and remonstrance; or by proposing to the people an alteration of the federal constitution. This would all be quite unobjectionable; or, it may be, that no more is meant than to assert the general right of revolution, as against all governments, in cases of intolerable oppression. This no one doubts; and this, in my opinion, is all that he who framed the resolutions could have meant by it: for I shall not readily believe that he (Mr. Madison) was ever of opinion that a State, under the constitution, and in conformity with it, could, upon the ground of her own opinion of its unconstitutionality, however clear and palpable she might think the case, annul a law of Congress, so far as it should operate on herself, by her own legislative power."

Mr. Hayne, on his part, disclaimed all imitation of the Hartford Convention; and gave (as the practical part of his doctrine) the pledge of forcible resistance to any attempt to enforce unconstitutional laws. He said:

"Sir, unkind as my allusion to the Hartford Convention has been considered by its supporters, I apprehend that this disclaimer of the gentleman will be regarded as 'the unkindest cut of all.' When the gentleman spoke of the Carolina conventions of Colleton and Abbeville, let me tell him that he spoke of that which never

had existence, except in his own imagination. There have, indeed, been meetings of the people in those districts, composed, sir, of as high-minded and patriotic men as any country can boast; but we have had no 'convention' as yet; and when South Carolina shall resort to such a measure for the redress of her grievances, let me tell the gentleman that, of all the assemblies that have ever been convened in this country, the Hartford Convention is the very last we shall consent to take as an example; nor will it find more favor in our eyes, from being recommended to us by the senator from Massachusetts. Sir, we would scorn to take advantage of difficulties created by a foreign war, to wring from the federal government a redress even of our grievances. We are standing up for our constitutional rights, in a time of profound peace; but if the country should, unhappily, be involved in a war to-morrow, we should be found flying to the standard of our country—first driving back the common enemy, and then insisting upon the restoration of our rights.

"The gentleman has called upon us to carry out our scheme practically. Now, sir, if I am correct in my view of this matter, then it follows, of course, that the right of a State being established, the federal government is bound to acquiesce in a solemn decision of a State, acting in its sovereign capacity, at least so far as to make an appeal to the people for an amendment to the constitution. This solemn decision of a State (made either through its legislature, or a convention, as may be supposed to be the proper organ of its sovereign will—a point I do not propose now to discuss) binds the federal government, under the highest constitutional obligation, not to resort to any means of coercion against the citizens of the dissenting State. How, then, can any collision ensue between the federal and State governments, unless, indeed, the former should determine to enforce the law by unconstitutional means? What could the federal government do, in such a case? Resort, says the gentleman, to the courts of justice. Now, can any man believe that, in the face of a solemn decision of a State, that an act of Congress is 'a gross, palpable, and deliberate violation of the constitution,' and the interposition of its sovereign authority to protect its citizens from the usurpation, that juries could be found ready merely to register the decrees of the Congress, wholly regardless of the unconstitutional character of their acts? Will the gentleman contend that juries are to be coerced to find verdicts at the point of the bayonet? And if not, how are the United States to enforce an act solemnly pronounced to be unconstitutional? But, if the attempt should be made to carry such a law into effect, by force, in what would the case differ from an attempt to carry into effect an act nullified by the courts, or to do any other unlawful and unwarrantable act? Suppose Congress should pass an agrarian law, or a law emancipating our slaves, or should commit any other gross violation of our constitutional rights, will any gentleman contend that the decision of every branch of the federal government, in favor of such laws, could prevent the States from declaring them null and void, and protecting their citizens from their operation?

"Sir, if Congress should ever attempt to enforce any such laws, they would put themselves so clearly in the wrong, that no one could doubt the right of the State to exert its protecting power.

"Sir, the gentleman has alluded to that portion of the militia of South Carolina with which I have the honor to be connected, and asked how they would act in the event of the nullification of the tariff law by the State of South Carolina? The tone of the gentleman, on this subject, did not seem to me as respectful as I could have desired. I hope, sir, no imputation was intended.

[Mr. Webster: "Not at all; just the reverse."]

"Well, sir, the gentleman asks what their leaders would be able to read to them out of Coke upon Littleton, or any other law book, to justify their enterprise? Sir, let me assure the gentleman that, whenever any attempt shall be made from any quarter, to enforce unconstitutional laws, clearly violating our essential rights, our leaders (whoever they may be) will not be found reading black letter from the musty pages of old law books. They will look to the constitution, and when called upon, by the sovereign authority of the State, to preserve and protect the rights secured to them by the charter of their liberties, they will succeed in defending them, or 'perish in the last ditch.'"

I do not pretend to give the arguments of the gentlemen, or even their substance, but merely to state their propositions and their conclusions. For myself, I did not believe in any thing serious in the new interpretation given to the Virginia resolutions—did not believe in any thing practical from nullification—did not believe in forcible resistance to the tariff laws from South Carolina—did not believe in any scheme of disunion—believed, and still believe, in the patriotism of Mr. Hayne: and as he came into the argument on my side in the article of the public lands, so my wishes were with him, and I helped him where I could. Of this desire to help, and disbelief in disunion, I gave proof, in ridiculing, as well as I could, Mr. Webster's fine peroration to liberty and union, and really thought it out of place—a fine piece of rhetoric misplaced, for want of circumstances to justify it. He had concluded thus:

"When my eyes shall be turned to behold, for the last time, the sun in heaven, may I not see

him shining on the broken and dishonored fragments of a once glorious Union; on States dissevered, discordant, belligerent; on a land rent with civil feuds, or drenched, it may be, in fraternal blood! Let their last feeble and lingering glance, rather, behold the gorgeous ensign of the republic, now known and honored throughout the earth, still full high advanced, its arms and trophies streaming in their original lustre, not a stripe erased or polluted, nor a single star obscured, bearing for its motto no such miserable interrogatory as, What is all this worth? Nor those other words of delusion and folly, Liberty first, and Union afterwards: but every where, spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart—Liberty *and* Union, now and for ever, one and inseparable!".

These were noble sentiments, oratorically expressed, but too elaborately and too artistically composed for real grief in presence of a great calamity—of which calamity I saw no sign; and therefore deemed it a fit subject for gentle castigation: and essayed it thus:

"I proceed to a different theme. Among the novelties of this debate, is that part of the speech of the senator from Massachusetts which dwells with such elaboration of declamation and ornament, upon the love and blessings of union—the hatred and horror of disunion. It was a part of the senator's speech which brought into full play the favorite Ciceronian figure of amplification. It was up to the rule in that particular. But, it seemed to me, that there was another rule, and a higher, and a precedent one, which it violated. It was the rule of propriety; that rule which requires the fitness of things to be considered; which requires the time, the place, the subject, and the audience, to be considered; and condemns the delivery of the argument, and all its flowers, if it fails in congruence to these particulars. I thought the essay upon union and disunion had so failed. It came to us when we were not prepared for it; when there was nothing in the Senate, nor in the country to grace its introduction; nothing to give, or to receive, effect to, or from, the impassioned scene that we witnessed. It may be, it was the prophetic cry of the distracted daughter of Priam, breaking into the council, and alarming its tranquil members with vaticinations of the fall of Troy: but to me, it all sounded like the sudden proclamation for an earthquake, when the sun, the earth, the air, announced no such prodigy; when all the elements of nature were at rest, and sweet repose pervading the world. There was a time, and you, and I, and all of us, did see it, sir, when such a speech would have found, in its delivery, every attribute of a just and rigorous propriety! It was at a time, when the five-striped banner was waving over the land of the North! when the Hartford Convention was in session! when the language in the capitol was, "Peaceably, if we can; forcibly, if we must!" when the cry, out of doors, was, "the Potomac the boundary; the negro States by themselves! The Alleghanies the boundary; the Western savages by themselves! The Missippi the boundary, let Missouri be governed by a prefect, or given up as a haunt for wild beasts!" That time was the fit occasion for this speech; and if it had been delivered then, either in the hall of the House of Representatives, or in the den of the Hartford Convention, or in the highway among the bearers and followers of the five-striped banner, what effects must it not have produced! What terror and consternation among the plotters of disunion! But, here, in this loyal and quiet assemblage, in this season of general tranquillity and universal allegiance, the whole performance has lost its effect for want of affinity, connection, or relation, to any subject depending, or sentiment expressed, in the Senate; for want of any application, or reference, to any event impending in the country."

I do not quote this passage for any thing that I now see out of place in that peroration; but for a quite different purpose—for the purpose of showing that I was slow to believe in any design to subvert this Union—that at the time of this great debate (February and March, 1830) I positively discredited it, and publicly proclaimed my incredulity. I did not want to believe it. I repulsed the belief. I pushed aside every circumstance that Mr. Webster relied on, and softened every expression that Mr. Hayne used, and considered him as limiting (practically) his threatened resistance to the tariff act, to the kind of resistance which Virginia made to the alien and sedition laws—which was an appeal to the reason, judgment and feelings of the other States—and which had its effect in the speedy repeal of those laws. Mr. Calhoun had not then uncovered his position in relation to nullification. I knew that Mr. Webster was speaking *at* him in all that he said to Mr. Hayne: but I would believe nothing against him except upon his own showing, or undoubted evidence. Although not a favorite statesman with me, I felt admiration for his high intellectual endowments, and respect for the integrity and purity of his private life. Mr. Hayne I cordially loved; and believed, and still believe, in the loyalty of his intentions to the Union. They were both from the South—that sister Carolina, of which the other was my native State, and in both of which I have relatives and hereditary friends—

and for which I still have the affections which none but the wicked ever lose for the land of their birth: and I felt as they did in all that relates to the tariff—except their remedy. But enough for the present. The occasion will come, when we arrive at the practical application of the modern nullification doctrine, to vindicate the constitution from the political solecism of containing within itself a suicidal principle, and to vindicate the Virginia resolutions, and their authors (and, in their own language), from the "*anarchical and preposterous*" interpretation which has been put upon their words.

CHAPTER XLV.

REPEAL OF THE SALT TAX.

A TAX on Salt is an odious measure, hated by all people and in all time, and justly, because being an article of prime necessity, indispensable to man and to beast, and bountifully furnished them by the Giver of all good, the cost should not be burthened, nor the use be stinted by government regulation; and the principles of fair taxation would require it to be spared, because it is an agent, and a great one, in the development of many branches of agricultural and mechanical industry which add to the wealth of the country and produce revenue from the exports and consumption to which they give rise. People hate the salt tax, because they are obliged to have the salt, and cannot evade the tax: governments love the tax for the same reason—because people are obliged to pay it. This would seem to apply to governments despotic or monarchial, and not to those which are representative and popular. But representative governments sometimes have calamities—war for example—when subjects of taxation diminish as need for revenue increases: and then representative governments, like others, must resort to the objects which will supply its necessities. This has twice been the case with the article of salt in the United States. The duty on that article was carried up to a high tax in the *quasi* war with France (1798), having been small before; and then only imposed as a war measure—to cease as soon as the war was over. But all governments work alike on the imposition and release of taxes—easy to get them on in a time of necessity—hard to get them off when the necessity has passed. So of this first war tax on salt. The "speck of war" with France, visible above the horizon in '98, soon sunk below it; and the sunshine of peace prevailed. In the year 1800—two years after the duty was raised to its maximum—the countries were on the most friendly terms; but it was not until 1807, and under the whole power of Mr. Jefferson's administration, that this temporary tax was abolished; and with it the whole system of fishing bounties and allowances founded upon it.

In the war of 1812, at the commencement of the war with Great Britain, it was renewed, with its concomitant of fishing bounties and allowances; but still as a temporary measure, limited to the termination of the war which induced it, and one year thereafter. The war terminated in 1815, and the additional year expired in 1816; but before the year was out, the tax was continued, not for a definite period, but without time—on the specious argument that, if a time was fixed, it would be difficult to get it off before the time was out: but if unfixed, it would be easy to get it off at any time: and all agreed that that was to be soon—that a temporary continuance of all the taxes was necessary until the revenue, deranged by the war, should become regular and adequate. It was continued on this specious argument—and remained in full until General Jackson's administration—and, in part, until this day (1850)—the fishing bounties and allowances in full: and that is the working of all governments in the levy and repeal of taxes. I found the salt tax in full force when I came to the Senate in 1820, strengthened by time, sustained by a manufacturing interest, and by the fishing interest (which made the tax a source of profit in the supposed return of the duty in the shape of bounties and allowances): and by the whole American system; which took the tax into its keeping, as a protection to a branch of home industry. I found efforts being made in each House to suppress this burthen upon a prime necessary of life; and, in the session 1829–'30, delivered a speech in support of the laudable endeavor, of which these are some parts:

"Mr. Benton commenced his speech, by saying that he was no advocate for unprofitable de-

bate, and had no ambition to add his name to the catalogue of barren orators; but that there were cases in which speaking did good; cases in which moderate abilities produced great results, and he believed the question of repealing the salt tax to be one of those cases. It had certainly been so in England. There the salt tax had been overthrown by the labors of plain men, under circumstances much more unfavorable to their undertaking than exist here. The English salt tax had continued one hundred and fifty years. It was cherished by the ministry, to whom it yielded a million and a half sterling of revenue; it was defended by the domestic salt makers, to whom it gave a monopoly of the home market; it was consecrated by time, having subsisted for five generations; it was fortified by the habits of the people, who were born, and had grown gray under it; and it was sanctioned by the necessities of the State, which required every resource of rigorous taxation. Yet it was overthrown; and the overthrow was effected by two debates, conducted, not by the orators whose renown has filled the world—not by Sheridan, Burke, Pitt, and Fox—but by plain, business men—Mr. Calcraft, Mr. Curwen, and Mr. Egerton. These patriotic members of the British Parliament commenced the war upon the British salt tax in 1817, and finished it in 1822. They commenced with the omens and auspices all against them, and ended with complete success. They abolished the salt tax *in toto*. They swept it all off, bravely rejecting all compromises when they had got their adversaries half vanquished, and carrying their appeals home to the people, until they had roused a spirit before which the ministry quailed, the monopolizers trembled, the Parliament gave way, and the tax fell. This example is encouraging; it is full of consolation and of hope; it shows what zeal and perseverance can do in a good cause: it shows that the cause of truth and justice is triumphant when its advocates are bold and faithful. It leads to the conviction that the American salt tax will fall as the British tax did, as soon as the people shall see that its continuance is a burthen to them, without adequate advantage to the government, and that its repeal is in their own hands.

"The enormous amount of the tax was the first point to which Mr. B. would direct his attention. He said it was near three hundred per cent. upon Liverpool blown, and four hundred per cent. upon alum salt; but as the Liverpool was a very inferior salt, and not much used in the West, he would confine his observations to the salt of Portugal and the West Indies, called by the general name of alum. The import price of this salt was from eight to nine cents a bushel of fifty-six pounds each, and the duty upon that bushel was twenty cents. Here was a tax of upwards of two hundred per cent. Then the merchant had his profit upon the duty as well as the cost of the article: and when it went through the hands of several merchants before it got to the consumer, each had his profit upon it; and whenever this profit amounted to fifty per cent. upon the duty, it was upwards of one hundred per cent. upon the salt. Then, the tariff laws have deprived the consumer of thirty-four pounds in the bushel, by substituting weight for measure, and that weight a false one. The true weight of a measured bushel of alum salt is eighty-four pounds; but the British tariff laws, for the sake of multiplying the bushels, and increasing the product of the tax, substituted weight for measure; and our tariff laws copied after them, and adopted their standard of fifty-six pounds to the bushel.

"Mr. B. entered into statistical details, to show the aggregate amount of this tax, which he stated to be enormous, and contrary to every principle of taxation, even if taxes were so necessary as to justify the taxing of salt. He stated the importation of foreign salt, in 1829, at six millions of bushels, round numbers; the value seven hundred and fifteen thousand dollars, and the tax at twenty cents a bushel, one million two hundred thousand dollars, the merchant's profit upon that duty at fifty per cent. is six hundred thousand dollars; and the secret or hidden tax, in the shape of false weight for true measure, at the rate of thirty pounds in the bushel, was four hundred and fifty thousand dollars. Here, then, is taxation to the amount of about two millions and a quarter of dollars, upon an article costing seven hundred and fifty thousand dollars, and that article one of prime necessity and universal use, ranking next after bread, in the catalogue of articles for human subsistence.

"The distribution of this enormous tax upon the different sections of the Union, was the next object of Mr. B.'s inquiry; and, for this purpose, he viewed the Union under three great divisions—the Northeast, the South, and the West. To the northeast, and especially to some parts of it, he considered the salt tax to be no burthen, but rather a benefit and a money-making business. The fishing allowances and bounties produced this effect. In consideration of the salt duty, the curers and exporters of fish are allowed money out of the treasury, to the amount, as it was intended, of the salt duty paid by them; but it has been proved to be twice as much. The annual allowance is about two hundred and fifty thousand dollars, and the aggregate drawn from the treasury since the first imposition of the salt duty in 1789, is shown by the treasury returns to be five millions of dollars. Much of this is drawn by undue means, as is shown by the report of the Secretary of the Treasury, at the commencement of the present session, page eight of the annual report on the finances. The Northeast makes much salt at home, and chiefly by solar evaporation, which fits it for curing fish and provisions. Much of it is proved, by the returns of the salt makers, to be used in the fisheries, while the fisheries are drawing money from the treasury under the laws which intended to indemnify them for the duty paid on foreign salt.

To this section of the Union, then, the salt tax is not felt as a burthen.

"Let us proceed to the South. In this section there are but few salt works, and no bounties or allowances, as there are no fisheries. The consumers are thrown almost entirely upon the foreign supply, and chiefly use the Liverpool blown. The import price of this is about fifteen cents a bushel; the weight and strength is less than that of alum salt; and the tax falls heavily and directly upon the people, to the whole amount of their consumption. It is a heavy burthen upon the South.

"The West is the last section to be viewed, and it will be found to be the true seat of the most oppressive operations of the salt tax. The domestic supply is high in price, deficient in quantity, and altogether unfit for one of the greatest purposes for which salt is there wanted —curing provisions for exportation. A foreign supply is indispensable, and alum salt is the kind used. The import price of this kind, from the West Indies, is nine cents a bushels; from Portugal, eight cents a bushel. At these prices, the West could be supplied with this salt at New Orleans, if the duty was abolished; but, in consequence of the duty, it costs thirty-seven and a half cents per bushel there, being four times the import price of the article, and seventy-five cents per bushel at Louisville and other central parts of the valley of the Mississippi. This enormous price, resolved into its component parts, is thus made up: 1. Eight or nine cents a bushel for the salt. 2. Twenty cents for duty. 3. Eight or ten cents for merchant's profit at New Orleans. 4. Sixteen or seventeen cents for freight to Louisville. 5. Fifteen or twenty cents for the second merchant's profit, who counts his per centum on his whole outlay. In all, about seventy-five cents for a bushel of fifty pounds, which, if there was no duty, and the tariff regulations of weight for measure abolished, would be bought in New Orleans, by the measured bushel of eighty pounds weight, for eight or nine cents, and would be brought up the river, by steamboats, at the rate of thirty-three and a third cents per hundred weight. It thus appears that the salt tax falls heaviest upon the West. It is an error to suppose that the South is the greatest sufferer. The West wants it for every purpose the South does, and two great purposes besides—curing provision for export, and salting stock. The West uses alum salt, and on this the duty is heaviest, because the price is lower, and the weight greater. Twenty cents on salt which costs eight or nine cents a bushel is a much heavier duty than on that which costs fifteen cents; and then the deception in the substitution of weight for measure is much greater in alum salt, which weighs so much more than the Liverpool blown. Like the South, the West receives no bounties or allowances on account of the salt duties. This may be fair in the South, where the imported salt is not re-exported upon fish or provisions; but it is unfair in the West, where the exportation of beef, pork, bacon, cheese, and butter, is prodigious, and the foreign salt re-exported upon the whole of it.

"Mr. B. then argued, with great warmth, that the provision curers and exporters were entitled to the same bounties and allowances with the exporters of fish. The claims of each rested upon the same principle, and upon the principle of all drawbacks—that of a reimbursement of the duty which was paid on the imported salt when re-exported on fish and provisions. The same principle covers the beef and pork of the farmer, which covers the fish of the fisherman; and such was the law in the beginning. The first act of Congress, in the year 1789, which imposed a duty upon salt, allowed a bounty, in lieu of a drawback, on beef and pork exported, as well as fish. The bounty was the same in each case; it was five cents a quintal on dried fish, five cents a barrel on pickled fish, and five on beef and pork. As the duty on salt was increased, the bounties and allowances were increased also. Fish and salted beef and pork fared alike for the first twenty years.

"They fared alike till the revival of the salt tax at the commencement of the late war. Then they parted company; bounties and allowances were continued to the fisheries, and dropped on beef and pork; and this has been the case ever since. The exporters of fish are now drawing at the rate of two hundred and fifty thousand dollars per annum, as a reimbursement for their salt tax; while exporters of provisions draw nothing. The aggregate of the fishing bounties and allowances, actually drawn from the treasury, exceeds five millions of dollars; while the exporters of provisions, who get nothing, would have been entitled to draw a greater sum; for the export in salted provisions exceeds the value of exported fish.

"Mr. B. could not quit this part of his subject, without endeavoring to fix the attention of the Senate upon the provision trade of the West. He took this trade in its largest sense, as including the export trade of beef, pork, bacon, cheese, and butter, to foreign countries, especially the West Indies; the domestic trade to the Lower Mississippi and the Southern States; the neighborhood trade, as supplying the towns in the upper States, the miners in Missouri and the Upper Mississippi, the army and the navy; and the various professions, which, being otherwise employed, did not raise their own provisions. The amount of this trade, in this comprehensive view, was prodigious, and annually increasing, and involving in its current almost the entire population of the West, either as the growers and makers of the provisions, the curers, exporters, or consumers. The amount could scarcely be ascertained. What was exported from New Orleans was shown to be great; but it was only a fraction of the whole trade. He declared it to be entitled to the favorable consideration of Congress, and that the repeal of the salt duty was the greatest favor, if an act of justice ought to come

under the name of favor, which could be rendered it, as the salt was necessary in growing the hogs and cattle, as well as in preparing the beef and pork for market. A reduction in the price of salt, next to a reduction in the price of land, was the greatest blessing which the federal government could now confer upon the West. Mr. B. referred to the example of England, who favored her provision curers, and permitted them to import alum salt free of duty, for the encouragement of the provision trade, even when her own salt manufacturers were producing an abundant and superfluous supply of common salt. He showed that she did more; that she extended the same relief and encouragement to the Irish; and he read from the British statute book an act of the British Parliament, passed in 1807, entitled 'An act to encourage the export of salted beef and pork from Ireland,' which allowed a bounty of ten pence sterling on every hundred weight of beef and pork so exported, in consideration of the duty paid on the salt which was used in the curing of it. He stated, that, at a later period, the duty had been entirely repealed, and the Irish, in common with other British subjects, allowed a free trade with all the world, in salt; and then demanded, in the most emphatic manner, if the people of the West could not obtain from the American Congress the justice which the oppressed Irish had procured from a British Parliament, composed of hereditary nobles, and filled with representatives of rotten boroughs, and slavish retainers of the king's ministers.

"The 'American system' has taken the salt tax under its shelter and protection. The principles of that system, as I understand them, and practise upon them, are to tax, through the custom-house, the foreign rivals of our own essential productions, when, by that taxation, an adequate supply of the same article, as good and as cheap, can be made at home. These were the principles of the system (Mr. B. said) when he was initiated, and, if they had changed since, he had not changed with them; and he apprehended a promulgation of the change would produce a schism amongst its followers. Taking these to be the principles of the system, let the salt tax be brought to its test. In the first place, the domestic manufacture had enjoyed all possible protection. The duty was near three hundred per cent. on Liverpool salt, and four hundred upon alum salt; and to this must be added, so far as relates to all the interior manufactories, the protection arising from transportation, frequently equal to two or three hundred per cent. more. This great and excessive protection has been enjoyed, without interruption, for the last eighteen years, and partially for twenty years longer. This surely is time enough for the trial of a manufacture which requires but little skill or experience to carry it on. Now for the results. Have the domestic manufactories produced an adequate supply for the country? They have not; nor half enough. The production of the last year (1829) as shown in the returns to the Secretary of the Treasury, is about five millions of bushels; the importation of foreign salt, for the same period, as shown by the custom-house returns, is five million nine hundred and forty-five thousand five hundred and forty-seven bushels. This shows the consumption to be eleven millions of bushels, of which five are domestic. Here the failure in the essential particular of an adequate supply is more than one half. In the next place, how is it in point of price? Is the domestic article furnished as cheap as the foreign? Far from it, as alrendy shown, and still further, as can be shown. The price of the domestic, along the coast of the Atlantic States, varies, at the works, from thirty-seven and a half to fifty cents; in the interior, the usual prices, at the works, are from thirty-three and a third cents to one dollar for the bushel of fifty pounds, which can nearly be put into a half bushel measure. The prices of the foreign salt, at the import cities, as shown in the custom-house returns for 1829, are, for the Liverpool blown, about fifteen cents for the bushel of fifty-six pounds; for Turk's Island and other West India salt, about nine cents; for St. Ubes and other Portugal salt, about eight cents; for Spanish salt, Bay of Biscay and Gibraltar, about seven cents; from the Island of Malta, six cents. Leaving out the Liverpool salt, which is made by boiling, and, therefore, contains slack and bittern, a septic ingredient, which promotes putrefaction, and renders that salt unfit for curing provisions, and which is not used in the West, and the average price of the strong, pure, alum salt, made by solar evaporation, in hot climates, is about eight cents to the bushel. Here, then, is another lamentable failure. Instead of being sold as cheap as the foreign, the domestic salt is from four to twelve times the price of alum salt. The last inquiry is as to the quality of the domestic article. Is it as good as the foreign? This is the most essential application of the test: and here again the failure is decisive. The domestic salt will not cure provisions for exportation (the little excepted which is made, in the Northeast, by solar evaporation), nor for consumption in the South, nor for long keeping at the army posts, nor for voyages with the navy. For all these purposes it is worthless, and useless, and the provisions which are put up in it are lost, or have to be repacked, at a great expense, in alum salt. This fact is well known throughout the West, where too many citizens have paid the penalty of trusting to domestic salt, to be duped or injured by it any longer.

"And here he submitted to the Senate, that the American system, without a gross departure from its original principles, could not cover this duty any longer. It has had the full benefit of that system in high duties, imposed for a long time, on foreign salt; it had not produced an adequate supply for the country, nor half a supply; nor at as cheap a rate, by three hundred or one thousand per cent.; and what it did supply

so far from being equal in quantity, could not even be used as a substitute for the great and important business of the provision trade. The amount of so much of that trade as went to foreign countries, Mr. B. showed to be sixty-six thousand barrels of beef, fifty-four thousand barrels of pork, two millions of pounds of bacon, two millions of pounds of butter, and one million of pounds of cheese; and he considered the supply for the army and navy, and for consumption in the South, to exceed the quantity exported.

"It cannot be necessary here to dilate upon the uses of salt. But, in repealing that duty in England, it was thought worthy of notice that salt was necessary to the health, growth, and fattening of hogs, cattle, sheep, and horses; that it was a preservative of hay and clover, and restored moulded and flooded hay to its good and wholesome state, and made even straw and chaff available as food for cattle. The domestic salt makers need not speak of protection against alum salt. No quantity of duty will keep it out. The people must have it for the provision trade; and the duty upon that kind of salt is a grievous burthen upon them, without being of the least advantage to the salt makers.

"Mr. B. said, there was no argument which could be used here, in favor of continuing this duty, which was not used, and used in vain, in England; and many were used there, of much real force, which cannot be used here. The American system, by name, was not impressed into the service of the tax there, but its doctrines were; and he read a part of the report of the committee on salt duties, in 1817, to prove it. It was the statement of the agent of the British salt manufacturers, Mr. William Horne, who was sworn and examined as a witness. He said: 'I will commence by referring to the evidence I gave upon the subject of rock salt, in order to establish the presumption of the national importance of the salt trade, arising from the large extent of British capital employed in the trade, and the considerable number of persons dependant upon it for support. I, at the same time, stated that the salt trade was in a very depressed state, and that it continued to fall off. I think it cannot be doubted that the salt trade, in common with all staple British manufactures, is entitled to the protection of government; and the British manufacturers of salt consider that, in common with other manufacturers of this country, they are entitled to such protection, in particular from a competition at home with foreign manufacturers; and. in consequence, they hope to see a prohibitory duty on foreign salt.'

"Such was the petition of the British manufacturers. They urged the amount of their capital, the depressed state of their business, the number of persons dependent upon it for support, the duty of the government to protect it, the necessity for a prohibitory duty on foreign salt, and the fact that they were making more than the country could consume. The ministry backed them with a call for the continuance of the revenue, one million five hundred thousand pounds sterling, derived from the salt tax; and with a threat to lay that amount upon something else, if it was taken off of salt. All would not do. Mr. Calcraft, and his friends, appealed to the rights and interests of the people, as overruling considerations in questions of taxation. They denounced the tax itself as little less than impiety, and an attack upon the goodness and wisdom of God, who had filled the bowels of the earth, and the waves of the sea, with salt for the use and blessing of man, and to whom it was denied, its use clogged and fettered, by odious and abominable taxes. They demanded the whole repeal; and when the ministry and the manufacturers, overpowered by the voice of the people, offered to give up three fourths of the tax, they bravely resisted the proposition, stood out for total repeal. and carried it.

"Mr. B. could not doubt a like result here, and he looked forward, with infinite satisfaction, to the era of a free trade in salt. The first effect of such a trade would be, to reduce the price of alum salt, at the import cities, to eight or nine cents a bushel. The second effect would be, a return to the measured bushel, by getting rid of the tariff regulation, which substituted weight for measure, and reduced eighty-four pounds to fifty. The third effect would be, to establish a great trade, carried on by barter, between the inhabitants of the United States and the people of the countries which produce alum salt, to the infinite advantage and comfort of both parties. He examined the operation of this barter at New Orleans. He said, this pure and superior salt, made entirely by solar evaporation, came from countries which were deficient in the articles of food, in which the West abounded. It came from the West Indies, from the coasts of Spain and Portugal, and from places in the Mediterranean; all of which are at this time consumers of American provisions, and take from us beef, pork, bacon, rice, corn, corn meal, flour, potatoes, &c. Their salt costs them almost nothing. It is made on the sea beach by the power of the sun, with little care and aid from man. It is brought to the United States as ballast, costing nothing for the transportation across the sea. The duty alone prevents it from coming to the United States in the most unbounded quantity. Remove the duty, and the trade would be prodigious. A bushel of corn is worth more than a sack of salt to the half-starved people to whom the sea and the sun give as much of this salt as they will rake up and pack away. The levee at New Orleans would be covered—the warehouses would be crammed with salt; the barter trade would become extensive and universal, a bushel of corn, or of potatoes, a few pounds of butter, or a few pounds of beef or pork, would purchase a sack of salt; the steamboats would bring it up for a trifle; and all the upper States of the Great Valley, where salt is so scarce, so dear, and so indispensable for rearing stock and curing pro-

visions, in addition to all its obvious uses, would be cheaply and abundantly supplied with that article. Mr. B. concluded with saying, that, next to the reduction of the price of public lands, and the free use of the earth for labor and cultivation, he considered the abolition of the salt tax, and a free trade in foreign salt, as the greatest blessing which the federal government could now bestow upon the people of the West."

CHAPTER XLVI.

BIRTHDAY OF MR. JEFFERSON, AND THE DOCTRINE OF NULLIFICATION.

The anniversary of the birthday of Mr. Jefferson (April 13th) was celebrated this year by a numerous company at Washington City. Among the invited guests present were the President and Vice-President of the United States, three of the Secretaries of departments—Messrs. Van Buren, Eaton and Branch—and the Postmaster-General, Mr. Barry—and numerously attended by members of both Houses of Congress, and by citizens. It was a subscription dinner; and as the paper imported, to do honor to the memory of Mr Jefferson as the founder of the political school to which the subscribers belonged. In that sense I was a subscriber to the dinner and attended it; and have no doubt that the mass of the subscribers acted under the same feeling. There was a full assemblage when I arrived, and I observed gentlemen standing about in clusters in the ante-rooms, and talking with animation on something apparently serious, and which seemed to engross their thoughts. I soon discovered what it was—that it came from the promulgation of the twenty-four regular toasts, which savored of the new doctrine of nullification; and which, acting on some previous misgivings, began to spread the feeling, that the dinner was got up to inaugurate that doctrine, and to make Mr. Jefferson its father. Many persons broke off, and refused to attend further; but the company was still numerous, and ardent, as was proved by the number of volunteer votes given—above eighty—in addition to the twenty-four regulars; and the numerous and animated speeches delivered—the report of the whole proceedings filling eleven newspaper columns. When the regular toasts were over, the President was called upon for a volunteer, and gave it—the one which electrified the country, and has become historical: "Our Federal Union: It must be preserved." This brief and simple sentiment, receiving emphasis and interpretation from all the attendant circumstances, and from the feeling which had been spreading since the time of Mr. Webster's speech, was received by the public as a proclamation from the President, to announce a plot against the Union, and to summon the people to its defence. Mr. Calhoun gave the next toast; and it did not at all allay the suspicions which were crowding every bosom. It was this: "The Union: next to our Liberty the most dear: may we all remember that it can only be preserved by respecting the rights of the States, and distributing equally the benefit and burthen of the Union." This toast touched all the tender parts of the new question—liberty *before* union—*only* to be preserved—*State rights*—inequality of *burthens* and *benefits*. These phrases, connecting themselves with Mr. Hayne's speech, and with proceedings and publications in South Carolina, unveiled NULLIFICATION, as a new and distinct doctrine in the United States, with Mr. Calhoun for its apostle, and a new party in the field of which he was the leader. The proceedings of the day put an end to all doubt about the justice of Mr. Webster's grand peroration, and revealed to the public mind the fact of an actual design tending to dissolve the Union.

Mr Jefferson was dead at that time, and could not defend himself from the use which the new party made of his name—endeavoring to make him its founder;—and putting words in his mouth for that purpose which he never spoke. He happened to have written in his lifetime, and without the least suspicion of its future great materiality, the facts in relation to his concern in the famous resolutions of Virginia and Kentucky, and which absolve him from the accusation brought against him since his death. He counselled the resolutions of the Virginia General Assembly; and the word nullify, or nullification, is not in them, or any equivalent word: he drew the Kentucky resolutions of 1798: and they are equally destitute of the same phrases. He had nothing to do with the Kentucky resolutions of 1799, in which the word "*nullification*," and as the "rightful remedy," is found; and upon which the South Carolina school relied as their main argument—and from which their doctrine took its

name. Well, he had nothing to do with it! and so wrote (as a mere matter of information, and without foreseeing its future use), in a letter to William C. Cabell shortly before his death. This letter is in Volume III., page 429, of his published correspondence. Thus, he left enough to vindicate himself, without knowing that a vindication would be necessary, and without recurring to the argumentative demonstration of the peaceful and constitutional remedies which the resolutions which he did write, alone contemplated. But he left a friend to stand up for him when he was laid low in his grave—one qualified by his long and intimate association to be his compurgator, and entitled from his character to the absolute credence of all mankind. I speak of Mr. Madison, who, in various letters published in a quarto volume by Mr. J. C. McGuire, of Washington City, has given the proofs which I have already used, and added others equally conclusive. He fully overthrows and justly resents the attempt "*of the nullifiers to make the name of Mr. Jefferson the pedestal of their colossal heresy.*" (Page 286: letter to Mr. N. P. Trist.) And he left behind him a State also to come to the rescue of his assailed integrity—his own native State of Virginia—whose legislature almost unanimously, immediately after the attempt to make Mr. Jefferson "*the pedestal of this colossal heresy,*" passed resolves repulsing the imputation, and declaring that there was nothing in the Virginia resolutions '98 '99, to support South Carolina in her doctrine of nullification. These testimonies absolve Mr. Jefferson: but the nullifiers killed his birthday celebrations! Instead of being renewed annually, in all time, as his sincere disciples then intended, they have never been heard of since! and the memory of a great man—benefactor of his species—has lost an honor which grateful posterity intended to pay it, and which the preservation and dissemination of his principles require to be paid.

CHAPTER XLVII.

REGULATION OF COMMERCE.

THE constitution of the United States gives to Congress the power to regulate commerce with foreign nations. That power has not yet been executed, in the sense intended by the constitution: for the commercial treaties made by the President and the Senate are not the legislative regulation intended in that grant of power; nor are the tariff laws, whether for revenue or protection, any the more so. They all miss the object, and the mode of operating, intended by the constitution in that grant—the true nature of which was explained early in the life of the new federal government by those most competent to do it—Mr. Jefferson, Mr. Madison, and Mr. Wm. Smith of South Carolina,—and in the form most considerate and responsible. Mr. Jefferson, as Secretary of State, in his memorable report "On the restrictions and privileges of the commerce of the United States in foreign countries;" Mr. Madison in his resolutions as a member of the House of Representatives in the year 1793, "For the regulation of our foreign commerce;" and in his speeches in support of his resolutions; and the speeches in reply, chiefly by Mr. William Smith, of South Carolina, speaking (as it was held), the sense of General Hamilton; so that in the speeches and writing of these three early members of our government (not to speak of many other able men then in the House of Representatives), we have the authentic exposition of the meaning of the clause in question, and of its intended mode of operation: for they all agreed in that view of the subject, though differing about the adoption of a system which would then have borne most heavily upon Great Britain. The plan was defeated at that time, and only by a very small majority (52 to 47),—the defeat effected by the mercantile influence, which favored the British trade, and was averse to any discrimination to her disadvantage, though only intended to coerce her into a commercial treaty—of which we then had none with her. Afterwards the system of treaties was followed up, and protection to our own industry extended incidentally through the clause in the constitution authorizing Congress to "Lay and collect taxes, duties, imports and excises," &c. So that the power granted in the clause, "To regulate commerce with foreign nations," has never yet been exercised by Congress:—a neglect or omission, the more remarkable as, besides the plain and obvious fairness and benefit of the regulation intended, the power conferred by that clause was the potential moving cause of forming the present constitution, and creating the present Union.

The principle of the regulation was to be that of reciprocity—that is, that trade was not to be free on one side, and fettered on the other—that goods were not to be taken from a foreign country, free of duty, or at a low rate, unless that country should take something from us, also free, or at a low rate. And the mode of acting was by discriminating in the imposition of duties between those which had, and had not, commercial treaties with us—the object to be accomplished by an act of Congress to that effect; which foreign nations might meet either by legislation in their imposition of duties; or, and which is preferable, by treaties of specified and limited duration. My early study of the theory, and the working of our government—so often different, and sometimes opposite—led me to understand the regulation clause in the constitution, and to admire and approve it: and as in the beginning of General Jackson's administration, I foresaw the speedy extinction of the public debt, and the consequent release of great part of our foreign imports from duty, I wished to be ready to derive all the benefit from the event which would result from the double process of receiving many articles free which were then taxed, and of sending abroad many articles free which were now met by heavy taxation. With this view, I brought a bill into the Senate in the session 1829–'30, to revive the policy of Mr. Madison's resolutions of 1793—without effect then, but without despair of eventual success. And still wishing to see that policy revived, and seeing near at hand a favorable opportunity for it in the approaching extinction of our present public debt—(and I wish I could add, a return to economy in the administration of the government)—and consequent large room for the reduction and abolition of duties, I here produce some passages from the speech I delivered on my bill of 1830, preceded by some passages from Mr. Madison's speech of 1793, in support of his resolutions, and showing his view of their policy and operation—not of their constitutionality, for of that there was no question: and his complaint was that the identical clause in the constitution which caused the constitution to be framed, had then remained four years without execution. He said:

"Mr. Madison, after some general observations on the report, entered into a more particular consideration of the subject. He remarked that the commerce of the United States is not, at this day, on that respectable footing to which, from its nature and importance, it is entitled. He recurred to its situation previous to the adoption of the constitution, when conflicting systems prevailed in the different States. The then existing state of things gave rise to that convention of delegates from the different parts of the Union, who met to deliberate on some general principles for the regulation of commerce, which might be conducive, in their operation, to the general welfare, and that such measures should be adopted as would conciliate the friendship and good faith of those countries who were disposed to enter into the nearest commercial connections with us. But what has been the result of the system which has been pursued ever since? What is the present situation of our commerce? From the situation in which we find ourselves after four years' experiment, he observed, that it appeared incumbent on the United States to see whether they could not now take measures promotive of those objects, for which the government was in a great degree instituted. Measures of moderation, firmness and decision, he was persuaded, were now necessary to be adopted, in order to narrow the sphere of our commerce with those nations who see proper not to meet us on terms of reciprocity.

"Mr. M. took a general view of the probable effects which the adoption of something like the resolutions he had proposed, would produce. They would produce, respecting many articles imported, a competition which would enable countries who did not now supply us with those articles, to do it, and would increase the encouragement on such as we can produce within ourselves. We should also obtain an equitable share in carrying our own produce; we should enter into the field of competition on equal terms, and enjoy the actual benefit of advantages which nature and the spirit of our people entitle us to.

"He adverted to the advantageous situation this country is entitled to stand in, considering the nature of our exports and returns. Our exports are bulky, and therefore must employ much shipping, which might be nearly all our own: our exports are chiefly necessaries of life, or raw materials, the food for the manufacturers of other nations. On the contrary, the chief of what we receive from other countries, we can either do without, or produce substitutes.

"It is in the power of the United States, he conceived, by exerting her natural rights, without violating the rights, or even the equitable pretensions of other nations—by doing no more than most nations do for the protection of their interests, and much less than some, to make her interests respected; for, what we receive from other nations are but luxuries to us, which, if we choose to throw aside, we could deprive part of the manufacturers of those luxuries, of even bread, if we are forced to the contest of self-denial. This being the case, our country may make her enemies feel the extent of her power

We stand, with respect to the nation exporting those luxuries, in the relation of an opulent individual to the laborer, in producing the superfluities for his accommodation; the former can do without those luxuries, the consumption of which gives bread to the latter.

"He did not propose, or wish that the United States should, at present, go so far in the line which his resolutions point to, as they might go. The extent to which the principles involved in those resolutions should be carried, will depend upon filling up the blanks. To go the very extent of the principle immediately, might be inconvenient. He wished, only, that the Legislature should mark out the ground on which we think we can stand; perhaps it may produce the effect wished for, without unnecessary irritation; we need not at first, go every length.

"Another consideration would induce him, he said, to be moderate in filling up the blanks—not to wound public credit. He did not wish to risk any sensible diminution of the public revenue. He believed that if the blanks were filled with judgment, the diminution of the revenue, from a diminution in the quantity of imports, would be counterbalanced by the increase in the duties.

"The last resolution he had proposed, he said, is, in a manner, distinct from the rest. The nation is bound by the most sacred obligation, he conceived, to protect the rights of its citizens against a violation of them from any quarter; or, if they cannot protect, they are bound to repay the damage.

"It is a fact authenticated to this House by communications from the Executive, that there are regulations established by some European nations, contrary to the law of nations, by which our property is seized and disposed of in such a way that damages have accrued. We are bound either to obtain reparation for the injustice, or compensate the damage. It is only in the first instance, no doubt, that the burden is to be thrown upon the United States. The proper department of government will, no doubt, take proper steps to obtain redress. The justice of foreign nations will certainly not permit them to deny reparation when the breach of the law of nations evidently appears; at any rate, it is just that the individual should not suffer. He believed the amount of the damages that would come within the meaning of this resolution, would not be very considerable."

Reproducing these views of Mr. Madison, and with a desire to fortify myself with his authority, the better to produce a future practical effect, I now give the extract from my own speech of 1830:

"Mr. Benton said he rose to ask the leave for which he gave notice on Friday last; and in doing so, he meant to avail himself of the parliamentary rule, seldom followed here, but familiar in the place from whence we drew our rules—the British Parliament—and strictly right and proper, when any thing new or unusual is to be proposed, to state the clauses, and make an exposition of the principles of his bill, before he submitted the formal motion for leave to bring it in.

"The tenor of it is, not to abolish, but to provide for the abolition of duties. This phraseology announces that something in addition to the statute—some power in addition to that of the legislature, is to be concerned in accomplishing the abolition. Then the duties for abolition are described as unnecessary ones; and under this idea is included the twofold conception, that they are useless, either for the protection of domestic industry, or for supplying the treasury with revenue. The relief of the people from sixteen millions of taxes is based upon the idea of an abolition of twelve millions of duties; the additional four millions being the merchant's profit upon the duty he advances; which profit the people pay as a part of the tax, though the government never receives it. It is the merchant's compensation for advancing the duty, and is the same as his profit upon the goods. The improved condition of the four great branches of national industry is presented as the third object of the bill; and their relative importance, in my estimation, classes itself according to the order of my arrangement. Agriculture, as furnishing the means of subsistence to man, and as the foundation of every thing else, is put foremost; manufactures, as preparing and fitting things for our use, stands second, commerce, as exchanging the superfluities of different countries, comes next; and navigation, as furnishing the chief means of carrying on commerce, closes the list of the four great branches of national industry. Though classed according to their respective importance, neither branch is disparaged. They are all great interests—all connected—all dependent upon each other—friends in their nature—for a long time friends in fact, under the operations of our government: and only made enemies to each other, as they now are by a course of legislation, which the approaching extinguishment of the public debt presents a fit opportunity for reforming and ameliorating. The title of my bill declares the intention of the bill to improve the condition of each of them. The abolition of sixteen millions of taxes would itself operate a great improvement in the condition of each; but the intention of the bill is not limited to that incidental and consequential improvement, great as it may be; it proposes a positive, direct, visible, tangible, and countable benefit to each; and this I shall prove and demonstrate, not in this brief illustration of the title of my bill, but at the proper places, in the course of the examination into its provisions and exposition of its principles.

"I will now proceed with the bill, reading each section in its order, and making the remarks upon it which are necessary to explain its object and to illustrate its operation.

The First Section.

"That, for the term of ten years, from and after the first day of January, in the year 1832, or, as soon thereafter as may be agreed upon between the United States and any foreign power, the duties now payable on the importation of the following articles, or such of them as may be agreed upon, shall cease and determine, or be reduced, in favor of such countries as shall, by treaty, grant equivalent advantages to the agriculture, manufactures, commerce, and navigation, of the United States.

"This section contains the principle of abolishing duties by the joint act of the legislative and executive departments. The idea of equivalents, which the section also presents, is not new, but has for its sanction high and venerated authority, of which I shall not fail to avail myself. That we ought to have equivalents for abolishing ten or twelve millions of duties on foreign merchandise is most clear. Such an abolition will be an advantage to foreign powers, for which they ought to compensate us, by reducing duties to an equal amount upon our productions. This is what no law, or separate act of our own, can command. Amicable arrangements alone, with foreign owers, can effect it; and to free such arrangements from serious, perhaps insuperable difficulties, it would be necessary first to lay a foundation for them in an act of Congress. This is what my bill proposes to do. It proposes that Congress shall select the articles for abolition of duty, and then leave it to the Executive to extend the provisions of the act to such powers as will grant us equivalent advantages. The articles enumerated for abolition of duty are of kinds not made in the United States, so that my bill presents no ground of alarm or uneasiness to any branch of domestic industry.

"The acquisition of equivalents is a striking feature in the plan which I propose, and for that I have the authority of him whose opinions will never be invoked in vain, while republican principles have root in our soil. I speak of Mr. Jefferson, and of his report on the commerce and navigation of the United States, in the year '93, an extract from which I will read."

The Extract.

"Such being the restrictions on the commerce and navigation of the United States, the question is, in what way they may best be removed, modified, or counteracted?

"As to commerce, two methods occur 1. By friendly arrangements with the several nations with whom these restrictions exist: or, 2. By the separate act of our own legislatures, for countervailing their effects.

"There can be no doubt, but that, of these two, friendly arrangements is the most eligible. Instead of embarrassing commerce under piles of regulating laws, duties, and prohibitions, could it be relieved from all its shackles, in all parts of the world—could every country be employed in producing that which nature has best fitted it to produce, and each be free to exchange with others mutual surplusses, for mutual wants, the greatest mass possible would then be produced, of those things which contribute to human life and human happiness, the numbers of mankind would be increased, and their condition bettered.

"Would even a single nation begin with the United States this system of free commerce, it would be advisable to begin it with that nation; since it is one by one only that it can be extended to all. Where the circumstances of either party render it expedient to levy a revenue, by way of impost on commerce, its freedom might be modified in that particular, by mutual and equivalent measures, preserving it entire in all others.

"Some nations, not yet ripe for free commerce, in all its extent, might be willing to mollify its restrictions and regulations, for us, in proportion to the advantages which an intercourse with us might offer. Particularly they may concur with us in reciprocating the duties to be levied on each side, or in compensating any excess of duty, by equivalent advantages of another nature. Our commerce is certainly of a character to entitle it to favor in most countries. The commodities we offer are either necessaries of life, or materials for manufacture, or convenient subjects of revenue; and we take in exchange either manufactures, when they have received the last finish of art and industry, or mere luxuries. Such customers may reasonably expect welcome and friendly treatment at every market—customers, too, whose demands, increasing with their wealth and population, must very shortly give full employment to the whole industry of any nation whatever, in any line of supply they may get into the habit of calling for from it.

"But, should any nation, contrary to our wishes, suppose it may better find its advantage by continuing its system of prohibitions, duties, and regulations, it behooves us to protect our citizens, their commerce and navigation, by counter prohibitions, duties, and regulations, also. Free commerce and navigation are not to be given in exchange for restrictions and vexations; nor are they likely to produce a relaxation of them."

"The plan which I now propose adopts the idea of equivalents and retaliation to the whole extent recommended by Mr. Jefferson. It differs from his plan in two features: first, in the mode of proceeding, by founding the treaties abroad upon a legislative act at home; secondly, in combining protection with revenue, in selecting articles of exception to the system of free trade. This degree of protection he admitted himself, at a later period of his life. It corresponds with the recommendation of President Washington to Congress, in the year '90, and with that of our present Chief Magistrate, to

ourselves, at the commencement of the present session of Congress.

"I will not now stop to dilate upon the benefit which will result to every family from an abolition of duties which will enable them to get all the articles enumerated in my bill for about one third, or one half less, than is now paid for them. Let any one read over the list of articles, and then look to the sum total which he now pays out annually for them, and from that sum deduct near fifty per cent., which is about the average of the duties and merchant's profit included, with which they now come charged to him. This deduction will be his saving under one branch of my plan—the abolition clause. To this must be added the gain under the clause to secure equivalents in foreign markets, and the two being added together, the saving in purchases at home being added to the gain in sales abroad, will give the true measure of the advantages which my plan presents.

"Let us now see whether the agriculture and manufactures of the United States do not require better markets abroad than they possess at this time. What is the state of these markets? Let facts reply. England imposes a duty of three shillings sterling a pound upon our tobacco, which is ten times its value. She imposes duties equivalent to prohibition on our grain and provisions; and either totally excludes, or enormously taxes, every article, except cotton, that we send to her ports. In France, our tobacco is subject to a royal monopoly, which makes the king the sole purchaser, and subjects the seller to the necessity of taking the price which his agents will give. In Germany, our tobacco, and other articles, are heavily dutied, and liable to a transit duty, in addition, when they have to ascend the Rhine, or other rivers, to penetrate the interior. In the West Indies, which is our great provision market, our beef, pork, and flour, usually pay from eight to ten dollars a barrel: our bacon, from ten to twenty-five cents a pound; live hogs, eight dollars each; corn, cornmeal, lumber, whiskey, fruit, vegetables, and every thing else, in proportion; the duties in the different islands, on an average, equalling or exceeding the value of the articles in the United States. We export about forty-five millions of domestic productions, exclusive of manufactures, annually; and it may be safely assumed that we have to pay near that sum in the shape of duties, for the privilege of selling these exports in foreign markets. So much for agriculture. Our manufactures are in the same condition. In many branches they have met the home demand, and are going abroad in search of foreign markets. They meet with vexatious restrictions, peremptory exclusions, or oppressive duties, wherever they go. The quantity already exported entitles them to national consideration, in the list of exports. Their aggregate value for 1828 was about five millions of dollars, comprising domestic cottons, to the amount of a million of dollars; soap and candles, to the value of nine hundred thousand dollars; boots, shoes, and saddlery, five hundred thousand dollars; hats, three hundred thousand dollars; cabinet, coach, and other wooden work, six hundred thousand dollars; glass and iron, three hundred thousand dollars; and numerous smaller items. This large amount of manufactures pays their value, in some instances more, for the privilege of being sold abroad; and, what is worse, they are totally excluded from several countries from which we buy largely. Such restrictions and impositions are highly injurious to our manufactures; and it is incontestably true, the amount of exports prove it, that what most of them now need is not more protection at home, but a better market abroad; and it is one of the objects of this bill to obtain such a market for them.

"It appears to me [said Mr. B.] to be a fair and practicable plan, combining the advantages of legislation and negotiation, and avoiding the objections to each. It consults the sense of the people, in leaving it to their Representatives to say on what articles duties shall be abolished for their relief; on what they shall be retained for protection and revenue; it then secures the advantage of obtaining equivalents, by referring it to the Executive to extend the benefit of the abolition to such nations as shall reciprocate the favor. To such as will not reciprocate, it leaves every thing as it now stands. The success of this plan can hardly be doubted. It addresses itself to the two most powerful passions of the human heart—interest and fear; it applies itself to the strongest principles of human action—profit and loss. For, there is no nation with whom we trade but will be benefited by the increased trade of her staple productions, which will result from a free trade in such productions; none that would not be crippled by the loss of such a trade, which loss would be the immediate effect of rejecting our system. Our position enables us to command the commercial system of the globe; to mould it to our own plan, for the benefit of the world and ourselves. The approaching extinction of the public debt puts it into our power to abolish twelve millions of duties, and to set free more than one-half of our entire commerce. We should not forego, nor lose the advantages of such a position. It occurs but seldom in the life of a nation, and once missed, is irretrievably gone, to the generation, at least, that saw and neglected the golden opportunity. We have complained, and justly, of the burthens upon our exports in foreign countries; a part of our tariff system rests upon the principle of retaliation for the injury thus done us. Retaliation, heretofore, has been our only resource: but reciprocity of injuries is not the way to enrich nations any more than individuals. It is an 'unprofitable contest,' under every aspect. But the present conjuncture, payment of the public debt, in itself a rare and almost unprecedented occurrence in the history of nations, enables us to enlarge our system; to present a choice of alternatives: one fraught with relief, the other

presenting a burthen to foreign nations. The participation, or exclusion, from forty millions of free trade, annually increasing, would not admit of a second thought, in the head of any nation with which we trade. To say nothing of her gains in the participation in such a commerce, what would be her loss in the exclusion from it? How would England, France, or Germany, bear the loss of their linen, silk, or wine trade, with the United States? How could Cuba, St. Domingo, or Brazil, bear the loss of their coffee trade with us? They could not bear it at all. Deep and essential injury, ruin of industry seditions, and bloodshed, and the overthrow of administrations, would be the consequence of such loss. Yet such loss would be inevitable (and not to the few nations, or in the articles only which I have mentioned, for I have put a few instances only by way of example), but to every nation with whom we trade, that would not fall into our system, and throughout the whole list of essential articles to which our abolition extends. Our present heavy duties would continue in force against such nations; they would be abolished in favor of their rivals. We would say to them, in the language of Mr. Jefferson, free trade and navigation is not to be given in exchange for restrictions and vexations! But I feel entire confidence that it would not be necessary to use the language of menace or coercion. Amicable representations, addressed to their sense of self-interest, would be more agreeable, and not less effectual. The plan cannot fail! It is scarcely within the limits of possibility that it should fail! And if it did, what then? We have lost nothing. We remain as we were. Our present duties are still in force, and Congress can act upon them one or two years hence, in any way they please.

"Here, then, is the peculiar recommendation to my plan, that, while it secures a chance, little short of absolute certainty, of procuring an abolition of twelve millions of duties upon our exports in foreign countries, in return for an abolition of twelve millions of duties upon imports from them, it exposes nothing to risk, the abolition of duty upon the foreign article here being contingent upon the acquisition of the equivalent advantage abroad.

"I close this exposition of the principles of my bill with the single remark, that these treaties for the mutual abolition of duties should be for limited terms, say for seven or ten years, to give room for the modifications which time, and the varying pursuits of industry, may show to be necessary. Upon this idea, the bill is framed, and the period of ten years inserted by way of suggestion and exemplification of the plan. Another feature is too obvious to need a remark, that the time for the commencement of the abolition of duties is left to the Executive, who can accommodate it to the state of the revenue and the extinction of the public debt."

The plan which I proposed in this speech adopted the principle of Mr. Madison's resolutions but reversed their action. The discrimination which he proposed was a levy of five or ten per cent. *more* on the imports from countries which did not enter into our propositions for reciprocity: my plan, as being the same thing in substance, and less invidious in form, was a levy of five or ten per cent. *less* on the commerce of the reciprocating nations—thereby holding out an inducement and a benefit, instead of a threat and a penalty.

CHAPTER XLVIII.

ALUM SALT. THE ABOLITION OF THE DUTY UPON IT, AND REPEAL OF THE FISHING BOUNTY AND ALLOWANCES FOUNDED ON IT.

I LOOK upon a salt tax as a curse—as something worse than a political blunder, great as that is—as an impiety, in stinting the use, and enhancing the cost by taxation, of an article which God has made necessary to the health and comfort, and almost to the life, of every animated being—the poor dumb animal which can only manifest its wants in mute signs and frantic actions, as well as the rational and speaking man who can thank the Creator for his goodness, and curse the legislator that mars its enjoyment. There is a mystery in salt. It was used in holy sacrifice from the earliest day; and to this time, in the Oriental countries, the stranger lodging in the house, cannot kill or rob while in it, after he has tasted the master's salt. The disciples of Christ were called by their master the salt of the earth. Sacred and profane history abound in instances of people refusing to fight against the kings who had given them salt: and this mysterious deference for an article so essential to man and beast takes it out of the class of ordinary productions, and carries it up close to those vital elements—bread, water, fire, air—which Providence has made essential to life, and spread every where, that craving nature may find its supply without stint, and without tax The venerable Mr. Macon considered a salt tax in a sacrilegious point of view—as breaking a sacred law—and fought against ours as long as his public life lasted; and I, his disciple, not disesteemed by him, commenced fighting by his side against the odious imposition; and have contin-

ued it since his death, and shall continue it until the tax ceases, or my political life terminates. Many are my speeches, and reports, against it in my senatorial life of thirty years; and among other speeches, one limited to a particular kind of salt not made in the United States, and indispensable to dried or pickled provisions. This is the alum salt, made by solar evaporation out of sea water; and being a kind not produced at home, indispensable and incapable of substitute, it had a legitimate claim to exemption from the canons of the American system. That system protected homemade fire-boiled common salt, because it had a foreign rival: we had no sun-made crystallized salt at home; and therefore had nothing to protect in taxing the foreign article. I had failed—we had all failed—in our attempts to abolish the salt tax generally: I determined to attempt the abolition of the alum salt duty separately; and with it, the fishing bounties and allowances founded upon it: and brought a bill into the Senate to accomplish that object. The fishing bounties and allowances being claimed by some, as a bounty to navigation (in which point of view they would be as unconstitutional as unjust), I was under the necessity of tracing their origin, as being founded on the idea of a drawback of the duty paid on the salt put upon the exported dried or pickled fish—commencing with the salt tax, and adjusted to the amount of the tax—rising with its increase and falling with its fall—and that, in the beginning allowed to the exportation of pickled beef and pork, to the same degree, and upon the same principle that the bounties and allowances were extended to the fisheries. In the bill introduced for this purpose, I spoke as follows:

"To spare any senator the supposed necessity of rehearsing me a lecture upon the importance of the fisheries, I will premise that I have some acquaintance with the subject—that I know the fisheries to be valuable, for the food they produce, the commerce they create, the mariners they perfect, the employment they give to artisans in the building of vessels; and the consumption they make of wood, hemp and iron. I also know that the fishermen applied for the bounties, at the commencement of our present form of government, which the British give to their fisheries, for the encouragement of navigation; and that they were denied them upon the report of the then Secretary of State (Mr. Jefferson). I also know that our fishing bounties and allowances go, in no part, to that branch of fishing to which the British give most bounty—whaling—because it is the best school for mariners; and the interests of navigation are their principal object in promoting fishing. No part of our bounties and allowances go to our whale ships, because they do not consume foreign salt on which they have paid duty, and reclaim it as drawback. I have also read the six dozen acts of Congress, general and particular, passed in the last forty years—from 1789 to 1829 inclusively—giving the bounties and allowances which it is my present purpose to abolish, with the alum salt duty on which all this superstructure of legislative enactment is built up. I say the salt tax, and especially the tax on alum salt (which is the kind required for the fisheries), is the foundation of all these bounties and allowances; and that, as they grew up together, it is fair and regular that they should sink and fall together. I recite a dozen of the acts: thus:

"1. Act of Congress, 1789, grants five cents a barrel on pickled fish and salted provisions, and five cents a quintal on dried fish, exported from the United States, in lieu of a drawback of the duties imposed on the importation of the salt used in curing such fish and provisions.

"N. B. Duty on salt, at that time, six cents a bushel.

"2. Act of 1790 increases the bounty in lieu of drawback to ten cents a barrel on pickled fish and salted provisions, and ten cents a quintal on dried fish. The duty on salt being then raised to twelve cents a bushel.

"3. Act of 1792 repeals the bounty in lieu of drawback on dried fish, and in lieu of that, and as a commutation and equivalent therefor, authorizes an allowance to be paid to vessels in the cod fishery (dried fish) at the rate of one dollar and fifty cents a ton on vessels of twenty to thirty tons; with a limitation of one hundred and seventy dollars for the highest allowance to any vessel.

"4. A supplementary act, of the same year, adds twenty per cent. to each head of these allowances.

"5. Act of 1797 increases the bounty on salted provisions to eighteen cents a barrel; on pickled fish to twenty-two cents a barrel; and adds thirty-three and a third per cent. to the allowance in favor of the cod-fishing vessels. Duty on salt, at the same time, being raised to twenty cents a bushel.

"6. Act of 1799 increases the bounty on pickled fish to thirty cents a barrel, on salted provisions to twenty-five.

"7. Act of 1800 continues all previous acts (for bounties and allowances) for ten years, and makes this proviso: That these allowances shall not be understood to be continued for a longer time than the correspondent duties on salt, respectively, for which the said additional allowances were granted, shall be payable.

"8. Act of 1807 repeals all laws laying a duty on imported salt, and for paying bounties on the exportation of pickled fish and salted pro-

visions, and making allowances to fishing vessels —Mr. Jefferson being then President.

"9. Act of 1813 gives a bounty of twenty cents a barrel on pickled fish exported, and allows to the cod-fishing vessels at the rate of two dollars and forty cents the ton for vessels between twenty and thirty tons, four dollars a ton for vessels above thirty, with a limitation of two hundred and seventy-two dollars for the highest allowance; and a proviso, that no bounty or allowance should be paid unless it was proved to the satisfaction of the collector that the fish was wholly cured with foreign salt, and the duty on it secured or paid. The salt duty, at the rate of twenty cents a bushel, was revived as a war tax at the same time. Bounties on salted provisions were omitted.

"10. Act of 1816 continued the act of 1813 in force, which, being for the war only, would otherwise have expired.

"11. Act of 1819 increases the allowance to vessels in the cod fishery to three dollars and fifty cents a ton on vessels from five to thirty; to four dollars a ton on vessels above thirty tons; with a limitation of three hundred and sixty dollars for the maximum allowance.

"12. Act of 1828 authorizes the mackerel fishing vessels to take out licenses like the cod-fishing vessels, under which it is reported by the vigilant Secretary of the Treasury that money is illegally drawn by the mackerel vessels— the newspapers say to the amount of thirty to fifty thousand dollars per annum.

"These recitals of legislative enactments are sufficient to prove that the fishing bounties and allowances are bottomed upon the salt duty, and must stand or fall with that duty. I will now give my reasons for proposing to abolish the duty on alum salt, and will do it in the simplest form of narrative statement; the reasons themselves being of a nature too weighty and obvious to need, or even to admit, of coloring or exaggeration from arts of speech.

"1. Because it is an article of indispensable necessity in the provision trade of the United States. No beef or pork for the army or navy, or for consumption in the South, or for exportation abroad, can be put up except in this kind of salt. If put up in common salt it is rejected absolutely by the commissaries of the army and navy, and if taken to the South must be repacked in alum salt, at an expense of one dollar and twelve and a half cents a barrel, before it is exported, or sold for domestic consumption. The quantity of provisions which require this salt, and must have it, is prodigious, and annually increasing. The exports of 1828 were, of beef sixty-six thousand barrels, of pork fifty-four thousand barrels, of bacon one million nine hundred thousand pounds weight, butter and cheese two million pounds weight. The value of these articles was two millions and a quarter of dollars. To this amount must be added the supply for the army and navy, and all that was sent to the South for home consumption, every pound of which had to be cured in this kind of salt, for common salt will not cure it. The Western country is the great producer of provisions; and there is scarcely a farmer in the whole extent of that vast region whose interest does not require a prompt repeal of the duty on this description of salt.

"2. Because no salt of this kind is made in the United States, nor any rival to it, or substitute for it. It is a foreign importation, brought from various islands in the West Indies, belonging to England, France, Spain, and Denmark; and from Lisbon, St. Ubes, Gibraltar, the Bay of Biscay, and Liverpool. The principles of the protecting system do not extend to it: for no quantity of protection can produce a home supply. The present duty, which is far beyond the rational limit of protection, has been in force near thirty years, and has not produced a pound. We are still thrown exclusively upon the foreign supply. The principles of the protecting system can only apply to common salt, the product of which is considerable in the United States; and upon that kind, the present duty is proposed to be left in full force.

"3. Because the duty is enormous, and quadruples the price of the salt to the farmer. The original value of salt is about fifteen cents the measured bushel of eighty-four pounds. But the tariff substitutes weight for measure, and fixes that weight at fifty-six pounds, instead of eighty-four. Upon that fifty-six pounds, a duty of twenty cents is laid. Upon this duty, the retail merchant has his profit of eight or ten cents, and then reduces his bushel from fifty-six to fifty pounds. The consequence of all these operations is, that the farmer pays about three times as much for a weighed bushel of fifty pounds, as he would have paid for a measured bushel of eighty-four pounds, if this duty had never been imposed.

"4. Because the duty is unequal in its operation, and falls heavily on some parts of the community, and produces profit to others. It is a heavy tax on the farmers of the West, who export provisions; and no tax at all, but rather a source of profit, to that branch of the fisheries to which the allowances of the vessels apply. Exporters of provisions have the same claim to these allowances that exporters of fish have. Both claims rest upon the same principle, and upon the principle of all drawbacks, that of refunding the duty paid on the imported salt, which is re-exported on salted fish and provisions. The same principle covers the beef and pork of the farmer which covers the fish of the fisherman; and such was the law, as I have shown, for the first eighteen years that these bounties and allowances were authorized. Fish and provisions fared alike from 1789 to 1807. Bounties and allowances began upon them together, and fell together, on the repeal of the salt tax, in the second term of Mr. Jefferson's administration. At the renewal of the salt tax, in 1813, at the commencement of the late war, they parted company, and the law,

in the exact sense of the proverb, has made fish of one and flesh of the other ever since. The fishing interest is now drawing about two hundred and fifty thousand dollars annually from the treasury; the provision raisers draw not a cent, while they export more than double as much, and ought, upon the same principle, to draw more than double as much money from the treasury.

"5. Because it is the means of drawing an undue amount of money from the public treasury, under the idea of an equivalent for the drawback of duty on the salt used in the curing of fish. The amount of money actually drawn in that way is about four millions seven hundred and fifty thousand dollars. and is now going on at the rate of two hundred and fifty thousand dollars per annum, and constantly augmenting. That this amount is more than the legal idea recognizes, or contemplates, is proved in various ways. 1. By comparing the quantity of salt supposed to have been used, with the quantity of fish known to have been exported, within a given year. This test, for the year 1828, would exhibit about seventy millions of pounds weight of salt on about forty millions of pounds weight of fish. This would suppose about a pound and three quarters of salt upon each pound of fish. 2. By comparing the value of the salt supposed to have been used, with the value of the fish known to have been exported. This test would give two hundred and forty-eight thousand dollars for the salt duty on about one million of dollars' worth of fish; making the duty one fourth of its value. On this basis, the amount of the duty on the salt used on exported provisions would be near six hundred thousand dollars. 3. By comparing the increasing allowances for salt with the decreasing exportation of fish. This test, for two given periods, the rate of allowance being the same, would produce this result: In the year 1820, three hundred and twenty-one thousand four hundred and nineteen quintals of dried fish exported, and one hundred and ninety-eight thousand seven hundred and twenty-four dollars paid for the commutation of the salt drawback: in 1828, two hundred and sixty-five thousand two hundred and seventeen quintals of dried fish exported, and two hundred and thirty-nine thousand one hundred and forty-five dollars paid for the commutation. These comparisons establish the fact that money is unlawfully drawn from the treasury by means of these fishing allowances, bottomed on the salt duty, and that fact is expressly stated by the Secretary of the Treasury (Mr. Ingham), in his report upon the finances, at the commencement of the present session of Congress. [See page eight of the report.]

"6. Because it has become a practical violation of one of the most equitable clauses in the constitution of the United States—the clause which declares that duties, taxes, and excises, shall be uniform throughout the Union. There is no uniformity in the operation of this tax. Far from it. It empties the pockets of some, and fills the pockets of others. It returns to some five times as much as they pay, and to others it returns not a cent. It gives to the fishing interest two hundred and fifty thousand dollars per annum, and not a cent to the farming interest, which, upon the same principle, would be entitled to six hundred thousand dollars per annum.

"7. Because this duty now rests upon a false basis—a basis which makes it the interest of one part of the Union to keep it up, while it is the interest of other parts to get rid of it. It is the interest of the West to abolish this duty: it is the interest of the Northeast to perpetuate it. The former loses money by it; the latter makes money by it; and a tax that becomes a money-making business is a solecism of the highest order of absurdity. Yet such is the fact. The treasury records prove it, and it will afford the Northeast a brilliant opportunity to manifest their disinterested affection to the West, by giving up their own profit in this tax, to relieve the West from the burthen it imposes upon her.

"8. Because the repeal of the duty will not materially diminish the revenue, nor delay the extinguishment of the public debt. It is a tax carrying money out of the treasury, as well as bringing it in. The issue is two hundred and fifty thousand dollars, perhaps the full amount which accrues on the kind of salt to which the abolition extends. The duty, and the fishing allowances bottomed upon it, falling together as they did when Mr. Jefferson was President, would probably leave the amount of revenue unaffected.

"9. Because it belongs to an unhappy period in the history of our government, and came to us, in its present magnitude, in company with an odious and repudiated set of measures. The maximum of twenty cents a bushel on salt was fixed in the year '98, and was the fruit of the same system which produced the alien and sedition laws, the eight per cent. loans, the stamp act, the black cockade, and the standing army in time of peace. It was one of the contrivances of that disastrous period for extorting money from the people, for the support of that strong and splendid government which was then the cherished vision of so many exalted heads. The reforming hand of Jefferson overthrew it, and all the superstructure of fishing allowances which was erected upon it. The exigencies of the late war caused it to be revived for the term of the war, and the interest of some, and the neglect of others, have permitted it to continue ever since. It is now our duty to sink it a second time. We profess to be disciples of the Jeffersonian school; let us act up to our profession, and complete the task which our master set us."

CHAPTER XLIX.

BANK OF THE UNITED STATES.

It has been already shown that General Jackson in his first annual message to Congress, called in question both the constitutionality and expediency of the national bank, in a way to show him averse to the institution, and disposed to see the federal government carried on without the aid of such an assistant. In the same message he submitted the question to Congress, that, *if* such an institution is deemed essential to the fiscal operations of the government, whether a national one, founded upon the credit of the government, and its revenues, might not be devised, which would avoid all constitutional difficulties, and at the same time secure all the advantages to the government and country that were expected to result from the present bank. I was not in Washington when this message was prepared, and had had no conversation with the President in relation to a substitute for the national bank, or for the currency which it furnished, and which having a general circulation was better entitled to the character of "national" than the issues of the local or State banks. We knew each other's opinions on the question of a bank itself: but had gone no further. I had never mentioned to him the idea of reviving the gold currency—then, and for twenty years—extinct in the United States: nor had I mentioned to him the idea of an independent or sub-treasury—that is to say, a government treasury unconnected with any bank—and which was to have the receiving and disbursing of the public moneys. When these ideas were mentioned to him, he took them at once; but it was not until the Bank of the United States should be disposed of that any thing could be done on these two subjects; and on the latter a process had to be gone through in the use of local banks as depositories of the public moneys which required several years to show its issue and inculcate its lesson. Though strong in the confidence of the people, the President was not deemed strong enough to encounter all the banks of all the States at once. Temporizing was indispensable—and even the conciliation of a part of them. Hence the deposit system—or some years' use of local banks as fiscal agents of the government—which gave to the institutions so selected, the invidious appellation of "*pet banks;*" meaning that they were government favorites.

In the mean time the question which the President had submitted to Congress in relation to a government fiscal agent, was seized upon as an admitted design to establish a government bank—stigmatized at once as a "thousand times more dangerous" than an incorporated national bank—and held up to alarm the country. Committees in each House of Congress, and all the public press in the interest of the existing Bank of the United States, took it up in that sense, and vehemently inveighed against it. Under an instruction to the Finance Committee of the Senate, to report upon a plan for a uniform currency, and under a reference to the Committee of Ways and Means of the House, of that part of the President's message which related to the bank and its currency, most ample, elaborate and argumentative reports were made—wholly repudiating all the suggestions of the President, and sustaining the actual Bank of the United States under every aspect of constitutionality and of expediency: and strongly presenting it for a renewal of its charter. These reports were multiplied without regard to expense, or numbers, in all the varieties of newspaper and pamphlet publication and lauded to the skies for their power and excellence, and triumphant refutation of all the President's opinions. Thus was the "war of the bank" commenced at once, in both Houses of Congress, and in the public press; and openly at the instance of the bank itself, which, forgetting its position as an institution of the government, for the convenience of the government, set itself up for a power, and struggled for a continued existence—in the shape of a new charter—as a question of its own, and almost as a right. It allied itself at the same time to the political party opposed to the President, joined in all their schemes of protective tariff, and national internal improvement: and became the head of the American system. With its moneyed and political power, and numerous interested affiliations, and its control over other banks, brokers and money dealers, it was truly a power, and a great one: and, in answer to a question put by General Smith, of Maryland, chairman of the Finance Committee of the Senate already mentioned (and appended with other questions and answers to

that report), Mr. Biddle, the president, showed a power in the national bank to save, relieve or destroy the local banks, which exhibited it as their absolute master; and, of course able to control them at will. The question was put in a spirit of friendship to the bank, and with a view to enable its president to exhibit the institution as great, just and beneficent. The question was: "*Has the bank at any time oppressed any of the State banks?*" and the answer: "*Never.*" And, as if that was not enough, Mr. Biddle went on to say: "*There are very few banks which might not have been destroyed by an exertion of the power of the bank. None have been injured. Many have been saved. And more have been, and are constantly relieved, when it is found that they are solvent but are suffering under temporary difficulty.*" This was proving entirely too much. A power to injure and destroy—to relieve and to save the thousand banks of all the States and Territories was a power over the business and fortunes of nearly all the people of those States and Territories: and might be used for evil as well as for good; and was a power entirely too large to be trusted to any man, with a heart in his bosom—or to any government, responsible to the people; much less to a corporation without a soul, and irresponsible to heaven or earth. This was a view of the case which the parties to the question had not foreseen; but which was noted at the time; and which, in the progress of the government struggle with the bank, received exemplifications which will be remembered by the generation of that day while memory lasts; and afterwards known as long as history has power to transmit to posterity the knowledge of national calamities.

CHAPTER L.

REMOVALS FROM OFFICE.

I AM led to give a particular examination of this head, from the great error into which Tocqueville has fallen in relation to it, and which he has propagated throughout Europe to the prejudice of republican government; and also, because the power itself is not generally understood among ourselves as laid down by Mr. Jefferson; and has been sometimes abused, and by each party, but never to the degree supposed by Mons. de Tocqueville. He says, in his chapter 8 on American democracy: "Mr. Quincy Adams, on his entry into office, discharged the majority of the individuals who had been appointed by his predecessor; and I am not aware that General Jackson allowed a single removable functionary employed in the public service to retain his place beyond the first year which succeeded his election." Of course, all these imputed sweeping removals were intended to be understood to have been made on account of party politics—for difference of political opinion—and not for miscon duct, or unfitness for office. To these classes of removal (unfitness and misconduct), there could be no objection: on the contrary, it would have been misconduct in the President not to have removed in such cases. Of political removals, for difference of opinion, then, it only remains to speak; and of those officials appointed by his predecessor, it is probable that Mr. Adams did not remove one for political cause; and that M. de Tocqueville, with respect to him, is wrong to the whole amount of his assertion.

I was a close observer of Mr. Adams's administration, and belonged to the opposition, which was then keen and powerful, and permitted nothing to escape which could be rightfully (sometimes wrongfully) employed against him; yet I never heard of this accusation, and have no knowledge or recollection at this time of a single instance on which it could be founded. Mr. Adams's administration was not a case, in fact, in which such removals—for difference of political opinion—could occur. They only take place when the presidential election is a revolution of parties; and that was not the case when Mr. Adams succeeded Mr. Monroe. He belonged to the Monroe administration, had occupied the first place in the cabinet during its whole double term of eight years; and of course, stood in concurrence with, and not in opposition to, Mr. Monroe's appointments. Besides, party lines were confused, and nearly obliterated at that time. It was called "the era of good feeling." Mr. Adams was himself an illustration of that feeling. He had been of the federal party—brought early into public life as such—a minister abroad and a senator at home as such; but having divided from his party in giving support to several prom-

inent measures of Mr. Jefferson's administration, he was afterwards several times nominated by Mr. Madison as minister abroad; and on the election of Mr. Monroe he was invited from London to be made his Secretary of State—where he remained till his own election to the Presidency. There was, then, no case presented to him for political removals; and in fact none such were made by him; so that the accusation of M. de Tocqueville, so far as it applied to Mr. Adams, is wholly erroneous, and inexcusably careless.

With respect to General Jackson, it is about equally so in the main assertion—the assertion that he did not allow a single removable functionary to remain in office beyond the first year after his election. On the contrary, there were entire classes—all those whose functions partook of the judicial—which he never touched. Boards of commissioners for adjudicating land titles; commissioners for adjudicating claims under indemnity treaties; judges of the territorial courts; justices of the District of Columbia; none of these were touched, either in the first or in any subsequent year of his administration, except a solitary judge in one of the territories; and he not for political cause, but on specific complaint, and after taking the written and responsible opinion of the then Attorney General, Mr. Grundy. Of the seventeen diplomatic functionaries abroad, only four (three ministers and one chargé des affaires) were recalled in the first year of his administration. In the departments at Washington, a majority of the incumbents remained opposed to him during his administration. Of the near eight thousand deputy postmasters in the United States, precisely four hundred and ninety-one were removed in the time mentioned by Mons. de Tocqueville, and they for all causes —for every variety of causes. Of the whole number of removable officials, amounting to many thousands, the totality of removals was about six hundred and ninety and they for all causes. Thus the government archives contradict Mons. de Tocqueville, and vindicate General Jackson's administration from the reproach cast upon it. Yet he came into office under circumstances well calculated to excite him to make removals. In the first place, none of his political friends, though constituting a great majority of the people of the United States, had been appointed to office during the preceding administration; and such an exclusion could not be justified on any consideration. His election was, in some degree, a revolution of parties, or rather a re-establishment of parties on the old line of federal and democratic. It was a change of administration, in which a change of government functionaries, to some extent, became a right and a duty; but still the removals actually made, when political, were not merely for opinions, but for conduct under these opinions; and, unhappily, there was conduct enough in too many officials to justify their removal. A large proportion of them, including all the new appointments, were inimical to General Jackson, and divided against him on the re-establishment of the old party lines; and many of them actively. Mr. Clay, holding the first place in Mr. Adams's cabinet, took the field against him, travelled into different States, declaimed against him at public meetings; and deprecated his election as the greatest of calamities. The subordinates of the government, to a great degree, followed his example, if not in public speeches, at least in public talk and newspaper articles; and it was notorious that these subordinates were active in the presidental election. It was a great error in them. It changed their position. By their position all administrations were the same to them. Their duties were ministerial, and the same under all Presidents. They were noncombatants. By engaging in the election they became combatant, and subjected themselves to the law of victory and defeat—reward and promotion in one case, loss of place in the other. General Jackson, then, on his accession to the Presidency, was in a new situation with respect to parties, different from that of any President since the time of Mr. Jefferson, whom he took for his model, and whose rule he followed. He made many removals, and for cause, but not so many as not to leave a majority in office against him—even in the executive departments in Washington City.

Mr. Jefferson had early and anxiously studied the question of removals. He was the first President that had occasion to make them, and with him the occasion was urgent. His election was a complete revolution of parties, and when elected, he found himself to be almost the only man of his party in office. The democracy had been totally excluded from federal appointment during the administration of his predecessor; almost all offices were in the hands of his political foes. I recollect to have heard an officer of

the army say that there was but one field officer in the service favorable to him. This was the type of the civil service. Justice to himself and his party required this state of things to be altered; required his friends to have a share proportionate to their numbers in the distribution of office; and required him to have the assistance of his friends in the administration of the government. The four years' limitation law—the law which now vacates within the cycle of every presidential term the great mass of the offices—was not then in force. Resignations then, as now, were few. Removals were indispensable, and the only question was the principle upon which they should be made. This question, Mr. Jefferson studied anxiously, and under all its aspects of principle and policy, of national and of party duty; and upon consultation with his friends, settled it to his and their satisfaction. The fundamental principle was, that each party was to have a share in the ministerial offices, the control of each branch of the service being in the hands of the administration; that removals were only to be made for cause; and, of course, that there should be inquiry into the truth of imputed delinquencies. "Official misconduct," "personal misconduct," "negligence," "incapacity," "inherent vice in the appointment," "partisan electioneering beyond the fair exercise of the elective franchise;" and where "the heads of some branches of the service were politically opposed to his administration"—these, with Mr. Jefferson, constituted the law of removals, and was so written down by him immediately after his inauguration. Thus, March 7th, 1801—only four days after his induction into office—he wrote to Mr. Monroe:

"Some removals, I know, must be made. They must be as few as possible, done gradually, and bottomed on some malversation, or inherent disqualification. Where we should draw the line between retaining all and none, is not yet settled, and will not be until we get our administration together; and, perhaps, even then we shall proceed *à tatons*, balancing our measures according to the impression we perceive them to make."

On the 23d of March, 1801, being still in the first month of his administration, Mr. Jefferson wrote thus to Gov. Giles, of Virginia:

"Good men, to whom there is no objection but a difference of political opinion, practised on only so far as the right of a private citizen will justify, are not proper subjects of removal, except in the case of attorneys and marshals. The courts being so decidedly federal and irremovable, it is believed that republican attorneys and marshals, being the doors of entrance into the courts, are indispensably necessary as a shield to the republican part of our fellow-citizens; which, I believe, is the main body of the people."

Six days after, he wrote to Elbridge Gerry, afterwards Vice-President, thus:

"Mr. Adams's last appointments, when he knew he was appointing counsellors and aids for me, not for himself, I set aside as fast as depends on me. Officers who have been guilty of gross abuse of office, such as marshals packing juries, &c., I shall now remove, as my predecessors ought in justice to have done. The instances will be few, and governed by strict rule, and not party passion. The right of opinion shall suffer no invasion from me. Those who have acted well have nothing to fear, however they may have differed from me in opinion: those who have done ill, however, have nothing to hope; nor shall I fail to do justice, lest it should be ascribed to that difference of opinion."

To Mr. Lincoln, his Attorney-General, still writing in the first year of his administration, he says:

"I still think our original idea as to office is best; that is, to depend, for obtaining a just participation, on deaths, resignations and delinquencies. This will least affect the tranquillity of the people, and prevent their giving into the suggestion of our enemies—that ours has been a contest for office, not for principle. This is rather a slow operation, but it is sure, if we pursue it steadily, which, however, has not been done with the undeviating resolution I could have wished. To these means of obtaining a just share in the transaction of the public business, shall be added one more, to wit, removal for electioneering activity, or open and industrious opposition to the principles of the present government, legislative and executive. Every officer of the government may vote at elections according to his conscience; but we should betray the cause committed to our care, were we to permit the influence of official patronage to be used to overthrow that cause. Your present situation will enable you to judge of prominent offenders in your State in the case of the present election. I pray you to seek them, to mark them, to be quite sure of your ground, that we may commit no errors or wrongs; and leave the rest to me. I have been urged to remove Mr. Whittemore, the surveyor of Gloucester, on grounds of neglect of duty and industrious opposition; yet no facts are so distinctly charged as to make the step sure which we should take in this. Will you take the trouble to satisfy yourself on the point?"

This was the law of removals as laid down by

Mr. Jefferson, and practised upon by him, but not to the extent that his principle required, or that public outcry indicated. He told me himself, not long before his death (Christmas, 1824), that he had never done justice to his own party —had never given them the share of office to which there numbers entitled them—had failed to remove many who deserved it, but who were spared through the intercession of friends and concern for their distressed families. General Jackson acted upon the rule of Mr. Jefferson, but no doubt was often misled into departures from the rule; but never to the extent of giving to the party more than their due proportion of office, according to their numbers. Great clamor was raised against him, and the number of so-called "removals" was swelled by an abuse of the term, every case being proclaimed a "removal," where he refused to reappoint an ex-incumbent whose term had expired under the four years' limitation act. Far from universal removals for opinion's sake, General Jackson, as I have already said, left the majority of his opponents in office, and re-appointed many such whose terms had expired, and who had approved themselves faithful officers.

Having vindicated General Jackson and Mr. Adams from the reproach of Mons. de Tocqueville, and having shown that it was neither a principle nor a practice of the Jefferson school to remove officers for political opinions, I now feel bound to make the declaration, that the doctrine of that school has been too much departed from of late, and by both parties, and to the great detriment of the right and proper working of the government.

The practice of removals for opinion's sake is becoming too common, and is reducing our presidential elections to what Mr. Jefferson deprecated, "a contest of office instead of principle," and converting the victories of each party, so far as office is concerned, into the political extermination of the other; as it was in Great Britain between the whigs and tories in the bitter contests of one hundred years ago, and when the victor made a "clean sweep" of the vanquished, leaving not a wreck behind. Mr. Macaulay thus describes one of those "sweepings:"

"A persecution, such as had never been known before, and has never been known since, raged in every public department. Great numbers of humble and laborious clerks were deprived of their bread, not because they had neglected their duties, not because they had taken an active part against the ministry, but merely because they had owed they situations to some (whig) nobleman who was against the peace. The proscription extended to tidewaiters, to doorkeepers. One poor man, to whom a pension had been given for his gallantry in a fight with smugglers, was deprived of it because he had been befriended by the (whig) Duke of Grafton. An aged widow, who, on account of her husband's services in the navy, had, many years before, been made housekeeper in a public office, was dismissed from her situation because she was distantly connected by marriage with the (whig) Cavendish family."

This, to be sure, was a tory proscription of whigs, and therefore the less recommendable as an example to either party in the United States, but too much followed by both—to the injury of individuals, the damage of the public service, the corruption of elections, and the degradation of government. De Tocqueville quotes removals as a reproach to our government, and although untrue to the extent he represented, the evil has become worse since, and is true to a sufficient extent to demand reform. The remedy is found in Mr. Jefferson's rule, and in the four years' limitation act which has since been passed; and under which, with removals for cause, and some deaths, and a few resignations, an ample field would be found for new appointments, without the harshness of general and sweeping removals.

I consider "sweeping" removals, as now practised by both parties, a great political evil in our country, injurious to individuals, to the public service, to the purity of elections, and to the harmony and union of the people. Certainly, no individual has a right to an office: no one has an estate or property in a public employment; but when a mere ministerial worker in a subordinate station has learned its duties by experience, and approved his fidelity by his conduct, it is an injury to the public service to exchange him for a novice, whose only title to the place may be a political badge or a partisan service. It is exchanging experience for inexperience, tried ability for untried, and destroying incentive to good conduct by destroying its reward. To the party displaced it is an injury, having become a proficient in that business, expecting to remain in it during good behavior, and finding it difficult, at an advanced age, and with fixed habits, to begin a new career in some new walk of life. It converts elections into scram-

bles for office, and degrades the government into an office for rewards and punishments; and divides the people of the Union into two adverse parties—each in its turn, and as it becomes dominant, to strip and proscribe the other.

Our government is a Union. We want a united *people*, as well as united *States*—united for benefits as well as for burdens, and in feeling as well as in compact; and this cannot be while one half (each in its turn) excludes the other from all share in the administration of the government. Mr. Jefferson's principle is perfect, and reconciled public and private interest with party rights and duties. The party in power is responsible for the well-working of the government, and has a right, and is bound by duty to itself, to place its friends at the head of the different branches of the public service. After that, and in the subordinate places, the opposite party should have its share of employment; and this Mr. Jefferson's principle gives to it. But as there are offices too subordinate for party proscription, so there are others too elevated and national for it. This is now acknowledged in the army and navy, and formerly was acknowledged in the diplomatic department; and should be again. To foreign nations we should, at least, be one people—an undivided people, and that in peace as well as in war. Mr. Jefferson's principle reached this case, and he acted upon it. His election was not a signal gun, fired for the recall of all the ministers abroad, to be succeeded incontinently by partisans of its own. Mr. Rufus King, the most eminent of the federal ministers abroad, and at the most eminent court of Europe, that of St. James, remained at his post for two years after the revolution of parties in 1800; and until he requested his own recall, treated all the while with respect and confidence, and intrusted with a negotiation which he conducted to its conclusion. Our early diplomatic policy, eschewing all foreign entanglement, rejected the office of "minister resident." That early republican policy would have no permanent representation at foreign courts. The "envoy extraordinary and minister plenipotentiary," called out on an emergent occasion, and to return home as soon as the emergency was over, was the only minister known to our early history; and then the mission was usually a mixed one, composed of both parties. And so it should be again. The present permanent supply and perpetual succession of "envoys extraordinary and ministers plenipotentiary" is a fraud upon the name, and a breach of the old policy of the government, and a hitching on American diplomacy to the tail of the diplomacy of Europe. It is the actual keeping up of "ministers resident" under a false name, and contrary to a wise and venerable policy; and requires the reform hand of the House of Representatives. But this point will require a chapter of its own, and its elucidation must be adjourned to another and a separate place.

Mons. de Tocqueville was right in the principle of his reproach, wrong in the extent of his application, but would have been less wrong if he had written of events a dozen years later. I deprecate the effect of such sweeping removals at each revolution of parties, and believe it is having a deplorable effect both upon the purity of elections and the distribution of office, and taking both out of the hands of the people, and throwing the management of one and the enjoyment of the other into most unfit hands. I consider it as working a deleterious change in the government, making it what Mr. Jefferson feared: and being a disciple of his school, and believing in the soundness and nationality of the rule which he laid down, I deem it good to recall it solemnly to public recollection—for the profit, and hope, of present and of future times.

CHAPTER LI.

INDIAN SOVEREIGNTIES WITHIN THE STATES

A POLITICAL movement on the part of some of the southern tribes of Indians, brought up a new question between the States and those Indians, which called for the interposition of the federal government. Though still called Indians, their primitive and equal government had lost its form, and had become an oligarchy, governed chiefly by a few white men, called half-breeds, because there was a tincture of Indian blood in their veins. These, in some instances, sat up governments within the States, and claimed sovereignty and dominion within their limits. The States resisted this claim and extended their laws and jurisdiction over them. The federal govern-

ment was appealed to; and at the commencement of the session of 1829–'30, in his first annual message, President Jackson brought the subject before the two Houses of Congress, thus:

"The condition and ulterior destiny of the Indian tribes within the limits of some of our States, have become objects of much interest and importance. It has long been the policy of government to introduce among them the arts of civilization, in the hope of gradually reclaiming them from a wandering life. This policy has, however, been coupled with another, wholly incompatible with its success. Professing a desire to civilize and settle them, we have, at the same time, lost no opportunity to purchase their lands and thrust them further into the wilderness. By this means they have not only been kept in a wandering state, but been led to look upon us as unjust, and indifferent to their fate. Thus, though lavish in its expenditures upon the subject, government has constantly defeated its own policy, and the Indians, in general, receding further and further to the West, have retained their savage habits. A portion, however, of the southern tribes, having mingled much with the whites, and made some progress in the arts of civilized life, have lately attempted to erect an independent government within the limits of Georgia and Alabama. These States, claiming to be the only sovereigns within their territories, extended their laws over the Indians; which induced the latter to call upon the United States for protection.

"Under these circumstances, the question presented was, whether the general government had a right to sustain those people in their pretensions? The constitution declares, that "no new States shall be formed or erected within the jurisdiction of any other State," without the consent of its legislature. If the general government is not permitted to tolerate the erection of a confederate State within the territory of one of the members of this Union, against her consent, much less could it allow a foreign and independent government to establish itself there. Georgia became a member of the confederacy which eventuated in our federal union, as a sovereign State, always asserting her claim to certain limits; which, having been originally defined in her colonial charter, and subsequently recognized in the treaty of peace, she has ever since continued to enjoy, except as they have been circumscribed by her own voluntary transfer of a portion of her territory to the United States, in the articles of cession of 1802. Alabama was admitted into the Union on the same footing with the original States, with boundaries which were prescribed by Congress. There is no constitutional, conventional, or legal provision, which allows them less power over the Indians within their borders, than is possessed by Maine or New-York. Would the people of Maine permit the Penobscot tribe to erect an independent government within their State? and, unless they did, would it not be the duty of the general government to support them in resisting such a measure? Would the people of New-York permit each remnant of the Six Nations within her borders, to declare itself an independent people, under the protection of the United States? Could the Indians establish a separate republic on each of their reservations in Ohio? And if they were so disposed, would it be the duty of this government to protect them in the attempt? If the principle involved in the obvious answer to these questions be abandoned, it will follow that the objects of this government are reversed; and that it has become a part of its duty to aid in destroying the States which it was established to protect.

"Actuated by this view of the subject, I informed the Indians inhabiting parts of Georgia and Alabama, that their attempt to establish an independent government would not be countenanced by the Executive of the United States; and advised them to emigrate beyond the Mississippi, or submit to the laws of those States."

Having thus refused to sustain these southern tribes in their attempt to set up independent governments within the States of Alabama and Georgia, and foreseeing an unequal and disagreeable contest between the Indians and the States, the President recommended the passage of an act to enable him to provide for their removal to the west of the Mississippi. It was an old policy, but party spirit now took hold of it, and strenuously resisted the passage of the act. It was one of the closest, and most earnestly contested questions of the session; and finally carried by an inconsiderable majority. The sum of $500,000 was appropriated to defray the expenses of treating with them for an exchange, or sale of territory; and under this act, and with the ample means which it placed at the disposal of the President, the removals were eventually effected; but with great difficulty, chiefly on account of a foreign, or outside influence from politicians and intrusive philanthropists. Georgia was the State where this question took its most serious form. The legislature of the State laid off the Cherokee country into counties, and prepared to exercise her laws within them. The Indians, besides resisting through their political friends in Congress, took counsel and legal advice, with a view to get the question into the Supreme Court of the United States. Mr. Wirt, the late Attorney General of the United States, was retained in their cause, and addressed a com-

munication to the Governor of the State, apprising him of the fact; and proposing that an "agreed case" should be made up for the decision of the court. Gov. Gilmer declined this proposal, and in his answer gave as the reason why the State had taken the decided step of extending her jurisdiction, that the Cherokee tribe had become merged in its management in the "half breeds," or descendants of white men, who possessed wealth and intelligence, and acting under political and fanatical instigations from without, were disposed to perpetuate their residence within the State,—(the part of them still remaining and refusing to join their half tribe beyond the Mississippi). The governor said: "So long as the Cherokees retained their primitive habits, no disposition was shown by the States under the protection of whose government they resided, to make them subject to their laws. Such policy would have been cruel; because it would have interfered with their habits of life, the enjoyments peculiar to Indian people, and the kind of government which accorded with those habits and enjoyments. It was the power of the whites, and of their children among the Cherokees, that destroyed the ancient laws, customs and authority of the tribe, and subjected the nation to the rule of that most oppressive of governments—an oligarchy. There is nothing surprising in this result. From the character of the people, and the causes operating upon them, it could not have been otherwise. It was this state of things that rendered it obligatory upon Georgia to vindicate the rights of her sovereignty by abolishing all Cherokee government within its limits. Whether of the intelligent, or ignorant class, the State of Georgia has passed no laws violative of the liberty, personal security, or private property of any Indian. It has been the object of humanity, and wisdom, to separate the two classes (the ignorant, and the informed Indians) among them, giving the rights of citizenship to those who are capable of performing its duties and properly estimating its privileges; and increasing the enjoyment and the probability of future improvement to the ignorant and idle, by removing them to a situation where the inducements to action will be more in accordance with the character of the Cherokee people."

With respect to the foreign interference with this question, by politicians of other States and pseudo philanthropists, the only effect of which was to bring upons ubaltern agents the punishment which the laws inflicted upon its violators, the governor said: "It is well known that the extent of the jurisdiction of Georgia, and the policy of removing the Cherokees and other Indians to the west of the Mississippi, have become party questions. It is believed that the Cherokees in Georgia, had determined to unite with that portion of the tribe who had removed to the west of the Mississippi, if the policy of the President was sustained by Congress. To prevent this result, as soon as it became highly probable that the Indian bill would pass, the Cherokees were persuaded that the right of self-government could be secured to them by the power of the Supreme Court of the United States, in defiance of the legislation of the general and State governments. It was not known, however, until the receipt of your letter, that the spirit of resistance to the laws of the State, and views of the United States, which has of late been evident among the Indians, had in any manner been occasioned by your advice." Mr. Wirt had been professionally employed by the Cherokees to bring their case before the Supreme Court; but as he classed politically with the party, which took sides with the Indians against Georgia, the governor was the less ceremonious, or reserved in his reply to him.

Judge Clayton, in whose circuit the Indian counties fell, at his first charge to the grand jury assured the Indians of protection, warned the intermeddlers of the mischief they were were doing, and of the inutility of applying to the Supreme Court. He said: "My other purpose is to apprise the Indians that they are not to be oppressed, as has been sagely foretold: that the same justice which will be meted to the citizen shall be meted to them." With respect to intermeddlers he said: "Meetings have been held in all directions, to express opinions on the conduct of Georgia, and Georgia alone—when her adjoining sister States had lately done precisely the same thing; and which she and they had done, in the rightful exercise of their State sovereignty." The judge even showed that one of these intrusive philanthropists had endeavored to interest European sympathy, in behalf of the Cherokees; and quoted from the address of the reverend Mr. Milner, of New-York, to the Foreign Missionary Society in London: "That if the cause of the negroes in the West Indias was interesting to

that auditory—and deeply interesting it ought to be—if the population in Ireland, groaning beneath the degradation of superstition—excited their sympathies, he trusted the Indians of North America would also be considered as the objects of their Christian regard. He was grieved, however, to state that there were those in America, who acted towards them in a different spirit; and he lamented to say that, at this very moment, the State of Georgia was seeking to subjugate and destroy the liberties both of the Creeks and the Cherokees; the former of whom possessed in Georgia, ten millions of acres of land, and the latter three millions." In this manner European sympathies were sought to be brought to bear upon the question of removal of the Indians—a political and domestic question, long since resolved upon by wise and humane American statesmen—and for the benefit of the Indians themselves, as well as of the States in which they were. If all that the reverend missionary uttered had been true, it would still have been a very improper invocation of European sympathies in an American domestic question, and against a settled governmental policy: but it was not true. The Creeks, with their imputed ten millions of acres, owned not one acre in the State; and had not in five years—not since the treaty of cession in 1825: which shows the recklessness with which the reverend suppliant for foreign sympathy, spoke of the people and States of his own country. The few Cherokees who were there, instead of subjugation and destruction of their liberties, were to be paid a high price for their land, if they chose to join their tribe beyond the Mississippi; and if not, they were to be protected like the white inhabitants of the counties they lived in. With respect to the Supreme Court, the judge declared that he should pay no attention to its mandate—holding no writ of error to lie from the Supreme Court of the United States to his State Court—but would execute the sentence of the law, whatever it might be, in defiance of the Supreme Court; and such was the fact. Instigated by foreign interference, and relying upon its protection, one George Tassels, of Indian descent, committed a homicide in resisting the laws of Georgia—was tried for murder—convicted—condemned—and sentenced to be hanged on a given day. A writ of error, to bring the case before itself, was obtained from the Supreme Court of the United States; and it was proposed by the counsel, Mr. Wirt, to try the whole question of the right of Georgia, to exercise jurisdiction over the Indians and Indian country within her limits, by the trial of this writ of error at Washington; and for that purpose, and to save the tedious forms of judicial proceedings, he requested the governor to consent to make up an "agreed case" for the consideration and decision of that high court. This proposition Governor Gilmer declined, in firm but civil terms, saying: "Your suggestion that it would be convenient and satisfactory if yourself, the Indians, and the governor would make up a law case to be submitted to the Supreme Court for the determination of the question, whether the legislature of Georgia has competent authority to pass laws for the government of the Indians residing within its limits, however courteous the manner, and conciliatory the phraseology, cannot but be considered as exceedingly disrespectful to the government of the State. No one knows better than yourself, that the governor would grossly violate his duty, and exceed his authority, by complying with such a suggestion; and that both the letter and the spirit of the powers conferred by the constitution upon the Supreme Court forbid its adjudging such a case. It is hoped that the efforts of the general government to execute its contract with Georgia (the compact of 1802), to secure the continuance and advance the happiness of the Indian tribes, and to give quiet to the country, may be so effectually successful as to prevent the necessity of any further intercourse upon the subject." And there was no further intercourse. The day for the execution of Tassels came round: he was hanged: and the writ of the Supreme Court was no more heard of. The remaining Cherokees afterwards made their treaty, and removed to the west of the Mississippi; and that was the end of the political, and intrusive philanthropical interference in the domestic policy of Georgia. One Indian hanged, some missionaries imprisoned, the writ of the Supreme Court disregarded, the Indians removed: and the political and pseudo-philanthropic intermeddlers left to the reflection of having done much mischief in assuming to become the defenders and guardians of a race which the humanity of our laws and people were treating with parental kindness

CHAPTER LII.

VETO ON THE MAYSVILLE ROAD BILL.

This was the third veto on the subject of federal internal improvements within the States, and by three different Presidents. The first was by Mr. Madison, on the bill "to set apart, and pledge certain funds for constructing roads and canals, and improving the navigation of watercourses, in order to facilitate, promote, and give security to internal commerce among the several States; and to render more easy and less expensive the means and provisions of the common defence"—a very long title, and even argumentative—as if afraid of the President's veto—which it received in a message with the reasons for disapproving it. The second was that of Mr. Monroe on the Cumberland Road bill, which, with an abstract of his reasons and arguments, has already been given in this View. This third veto on the same subject, and from President Jackson, and at a time when internal improvement by the federal government had become a point of party division, and a part of the American system, and when concerted action on the public mind had created for it a degree of popularity: this third veto under such circumstances was a killing blow to the system—which has shown but little, and only occasional vitality since. Taken together, the three vetoes, and the three messages sustaining them, and the action of Congress upon them (for in no instance did the House in which they originated pass the bills, or either of them, in opposition to the vetoes), may be considered as embracing all the constitutional reasoning upon the question; and enough to be studied by any one who wishes to make himself master of the subject.

CHAPTER LIII.

RUPTURE BETWEEN PRESIDENT JACKSON, AND VICE-PRESIDENT CALHOUN.

With the quarrels of public men history has no concern, except as they enter into public conduct, and influence public events. In such case, and as the cause of such events, these quarrels belong to history, which would be an empty tale, devoid of interest or instruction, without the development of the causes, and consequences of the acts which it narrates. Division among chiefs has always been a cause of mischief to their country; and when so, it is the duty of history to show it. That mischief points the moral of much history, and has been made the subject of the greatest of poems:

> "Achilles' wrath, to Greece the direful spring
> Of woes unnumbered——"

About the beginning of March, in the year 1831, a pamphlet appeared in Washington City, issued by Mr. Calhoun, and addressed to the people of the United States, to explain the cause of a difference which had taken place between himself and General Jackson, instigated as the pamphlet alleged by Mr. Van Buren, and intended to make mischief between the first and second officers of the government, and to effect the political destruction of himself (Mr. Calhoun) for the benefit of the contriver of the quarrel—the then Secretary of State; and indicated as a candidate for the presidential succession upon the termination of General Jackson's service. It was the same pamphlet of which Mr. Duncanson, as heretofore related, had received previous notice from Mr. Duff Green, as being in print in his office, but the publication delayed for the maturing of the measures which were to attend its appearance; namely: the change in the course of the *Telegraph;* its attacks upon General Jackson and Mr. Van Buren; the defence of Mr. Calhoun; and the chorus of the affiliated presses, to be engaged "in getting up the storm which even the popularity of General Jackson could not stand."

The pamphlet was entitled, "Correspondence between General Andrew Jackson and John C. Calhoun, President and Vice-President of the United States, on the subject of the course of the latter in the deliberations of the cabinet of Mr. Monroe on the occurrences of the Seminole war;" and its contents consisted of a prefatory address, and a number of letters, chiefly from Mr. Calhoun himself, and his friends—the General's share of the correspondence being a few brief notes to ascertain if Mr. Crawford's statement was true? and, being informed that, substantially, it was, to decline any further correspondence with Mr. Calhoun, and to promise a full public reply when he had the leisure for the purpose and access to

the proofs. His words were: "In your and Mr. Crawford's dispute I have no interest whatever; but it may become necessary for me hereafter, when I shall have more leisure and the documents at hand, to place the subject in its proper light—to notice the historical facts and references in your communication—which will give a very different view to the subject. . . . . Understanding you now, no further communication with you on this subject is necessary." . . . . . And none further appears from General Jackson.

But the general did what he had intimated he would—drew up a sustained reply, showing the subject in a different light from that in which Mr. Calhoun's letters had presented it; and quoting vouchers for all that he said. The case, as made out in the published pamphlet, stood before the public as that of an intrigue on the part of Mr. Van Buren to supplant a rival—of which the President was the dupe—Mr. Calhoun the victim—and the country the sufferer: and the *modus operandi* of the intrigue was, to dig up the buried proceedings in Mr. Monroe's cabinet, in relation to a proposed court of inquiry on the general (at the instance of Mr. Calhoun), for his alleged, unauthorized, and illegal operations in Florida during the Seminole war. It was this case which the general felt himself bound to confront—and did; and in confronting which he showed that Mr. Calhoun himself was the sole cause of breaking their friendship; and, consequently, the sole cause of all the consequences which resulted from that breach. Up to that time—up to the date of the discovery of Mr. Calhoun's now admitted part in the proposed measure of the court of inquiry—that gentleman had been the general's *beau ideal* of a statesman and a man—"the noblest work of God," as he publicly expressed it in a toast: against whom he would believe nothing, to whose friends he gave an equal voice in the cabinet, whom he consulted as if a member of his administration; and whom he actually preferred for his successor. This reply to the pamphlet, entitled "*An exposition of Mr. Calhoun's course towards General Jackson*," though written above twenty years ago, and intended for publication, has never before been given to the public. Its publication becomes essential now. It belongs to a dissension between chiefs which has disturbed the harmony, and loosened the foundations of the Union; and of which the view, on one side, was published in pamphlet at the time, registered in the weeklies and annuals, printed in many papers, carried into the Congress debates, especially on the nomination of Mr. Van Buren; and so made a part of the public history of the times—to be used as historical material in after time. The introductory paragraph to the "Exposition" shows that it was intended for immediate publication, but with a feeling of repugnance to the exhibition of the chief magistrate as a newspaper writer: which feeling in the end predominated, and delayed the publication until the expiration of his office—and afterwards, until his death. But it was preserved to fulfil its original purpose, and went in its manuscript form to Mr. Francis P. Blair, the literary legatee of General Jackson; and by him was turned over to me (with trunks full of other papers) to be used in this Thirty Years' View. It had been previously in the hands of Mr. Amos Kendall, as material for a life of Jackson, which he had begun to write, and was by him made known to Mr. Calhoun, who declined "*furnishing any further information on the subject.*" * It is in the fair round-hand writing of a clerk, slightly interlined in the general's hand, the narrative sometimes in the first and sometimes in the third person; vouchers referred to and shown for every allegation; and signed by the general in his own well-known hand. Its matter consists of three parts: 1. The justification of himself, under the law of nations and the treaty with Spain of 1795, for taking military possession of Florida in 1818. 2. The same justification, under the orders of Mr. Monroe and his Secretary at War (Mr. Calhoun). 3. The

* Mr. Kendall's letter to the author is in these words:

"December 29, 1853.—In reply to your note just received, I have to state that, wishing to do exact justice to all men in my Life of General Jackson, I addressed a note to Mr. Calhoun stating to him in substance, that I was in possession of the evidences on which the general based his imputation of duplicity touching his course in Mr. Monroe's cabinet upon the Florida war question, and inquiring whether it was his desire to furnish any further information on the subject, or rest upon that which was already before the public (in his publication). A few days afterwards, the Hon. Dixon H. Lewis told me that Mr. Calhoun had received my letter, and had requested him to ask me what was the nature of the evidences among General Jackson's papers to which I alluded. I stated them to him, as embodied in General Jackson's 'Exposition,' to which you refer. Mr. Lewis afterwards informed me that Mr. Calhoun had concluded to let the matter rest as it was. This is all the answer I ever received from Mr. Calhoun.'

statement of Mr. Calhoun's conduct towards him (the general) in all that affair of the Seminole war, and in the movements in the cabinet, and in the two Houses of Congress, to which it gave rise. All these parts belong to a life of Jackson, or a history of the Seminole war; but only the two latter come within the scope of this View. To these two parts, then, this publication of the Exposition is confined—omitting the references to the vouchers in the appendix—which having been examined (the essential ones) are found in every particular to sustain the text; and also omitting a separate head of complaint against Mr. Calhoun on account of his representations in relation to South Carolina claims.

"EXPOSITION.

"It will be recollected that in my correspondence with Mr. Calhoun which he has published, I engaged, when the documents should be at hand, to give a statement of facts respecting my conduct in the Seminole campaign, which would present it in a very different light from the one in which that gentleman has placed it.

"Although the time I am able to devote to the subject, engrossed as I am in the discharge of my public duties, is entirely inadequate to do it justice, yet from the course pursued by Mr. Calhoun, from the frequent misrepresentations of my conduct on that occasion, from the misapprehension of my motives for entering upon that correspondence, from the solicitations of numerous friends in different parts of the country, and in compliance with that engagement, I present to my fellow-citizens the following statement, with the documents on which it rests.

"I am aware that there are some among us who deem it unfit that the chief magistrate of this nation should, under any circumstances, appear before the public in this manner, to vindicate his conduct. These opinions or feelings may result from too great fastidiousness, or from a supposed analogy between his station and that of the first magistrate of other countries, of whom it is said they can do no wrong, or they may be well founded. I, however, entertain different opinions on this subject. It seems to me that the course I now take of appealing to the judgment of my fellow-citizens, if not in exact conformity with past usage, at least springs from the spirit of our popular institutions, which requires that the conduct and character of every man, how elevated soever may be his station should be fairly and freely submitted to the discussion and decision of the people. Under this conviction I have acted heretofore, and now act, not wishing this or any other part of my public life to be concealed. I present my whole conduct in connection with the subject of that correspondence in this form, to the indulgent but firm and enlightened consideration of my fellow citizens.

[Here follows a justification of Gen. Jackson's conduct under the law of nations, and under the orders to Gen. Gaines, his predecessor in the command.]

"Such was the gradation of orders issued by the government. At first they instructed their general '*not to pass the line.*' He is next instructed to '*exercise a sound discretion as to the necessity of crossing the line.*' He is then directed to *consider himself* '*at liberty to march across the Florida line,*' but to halt, and report to the department in case the Indians '*should shelter themselves under a Spanish fort.*' Finally, after being informed of the atrocious massacre of the men, women and children constituting the party of Lieutenant Scott, they order a new general into the field, and direct him to '*adopt the necessary measures to put an end to the conflict*, without regard to territorial "*lines*," or "*Spanish forts.*"' Mr. Calhoun's own understanding of the order issued by him, is forcibly and clearly explained in a letter written by him in reply to the inquiries of Governor Bibb, of Alabama, dated the 13th of May, 1818, in which he says:— '*General Jackson is vested with full power to conduct the war as he may think best.*'

"These orders were received by General Jackson at Nashville, on the night of the 12th January, 1818, and he instantly took measures to carry them into effect.

"In the mean time, however, he had received copies of the orders to General Gaines, to take possession of Amelia Island, and to enter Florida, but halt and report to the department, in case the Indians sheltered themselves under a Spanish fort. Approving the policy of the former, and perceiving in the latter, dangers to the army, and injury to the country, on the 6th of January he addressed a confidential letter to the President, frankly disclosing his views on both subjects. The following is a copy of that letter, viz.:—

"NASHVILLE, *6th Jan.*, 1818.

"SIR:—A few days since, I received a letter from the Secretary of War, of the 17th ult., with inclosures. Your order of the 19th ult. through him to Brevet Major General Gaines to enter the territory of Spain, and chastise the ruthless savages who have been depredating on the property and lives of our citizens, will meet not only the approbation of your country, but the approbation of Heaven. Will you however permit me to suggest the catastrophe that might arise by General Gaines's compliance with the last clause of your order? Suppose the case that the Indians are beaten: they take refuge either in Pensacola or St. Augustine, which open their gates to them: to profit by his victory, General Gaines pursues the fugitives, and has to halt be-

fore the garrison until he can communicate with his government. In the mean time the militia grow restless, and he is left to defend himself by the regulars. The enemy, with the aid of their Spanish friends, and Woodbine's British partisans, or, if you please with Aurey's force, attacks him. What may not be the result? Defeat and massacre. Permit me to remark that the arms of the United States must be carried to any point within the limits of East Florida, where an enemy is permitted and protected, or disgrace attends.

"The Executive Government have ordered, and, as I conceive, very properly. Amelia Island to be taken possession of. This order ought to be carried into execution at all hazards, and simultaneously the whole of East Florida seized, and held as an indemnity for the outrages of Spain upon the property of our citizens. This done, it puts all opposition down, secures our citizens a complete indemnity, and saves us from a war with Great Britain, or some of the continental powers combined with Spain. This can be done without implicating the government. *Let it be signified to me through any channel (say Mr. J. Rhea), that the possession of the Floridas would be desirable to the United States, and in sixty days it will be accomplished.*

"The order being given for the possession of Amelia Island, it ought to be executed, or our enemies, internal and external, will use it to the disadvantage of the government. If our troops enter the territory of Spain in pursuit of our Indian enemy, all opposition that they meet with must be put down, or we will be involved in danger and disgrace.

"I have the honor, &c.

"ANDREW JACKSON.

"James Monroe, *President U. S.*

"The course recommended by General Jackson in this letter relative to the occupation of the Floridas accords with the policy which dictated the secret act of Congress. He recommended no more than the President had a right to do. In consequence of the occupation of Amelia Island by the officers of the Colombian and Mexican governments, and the attempt to occupy the whole province, the President had a right, under the act of Congress, to order General Jackson to take possession of it in the name of the United States. He would have been the more justifiable in doing so, because the inhabitants of the province, the Indian subjects of the King of Spain, whom he was bound not only by the laws of nations, but by treaty to restrain, were in open war with the United States.

"Mr. Calhoun, the Secretary of War, was the first man who read this letter after its reception at Washington. In a letter from Mr. Monroe to General Jackson, dated 21st December, 1818, published in the Calhoun corespondence, page 44, is the following account of the reception, opening and perusal of this letter. viz.: 'Your letter of January 6th, was received while I was seriously indisposed. Observing that it was from you, I handed it to Mr. Calhoun to read, after reading one or two lines only myself. The order to you to take command in that quarter had before been issued. He remarked after perusing the letter, that it was a confidential one relating to Florida, *which I must answer.*'

"In accordance with the advice of Mr. Calhoun, and availing himself of the suggestion contained in the letter, Mr. Monroe sent for Mr. John Rhea (then a member of Congress), showed him the confidential letter, and requested him to answer it. In conformity with this request Mr. Rhea did answer the letter, and informed General Jackson that the President had shown him the confidential letter, and requested him to state that he approved of its suggestions. This answer was received by the general on the second night he remained at Big Creek, which is four miles in advance of Hartford, Georgia, and before his arrival at Fort Scott, to take command of the troops in that quarter.

"General Jackson had already received orders, vesting him with discretionary powers in relation to the measures necessary to put an end to the war. He had informed the President in his confidential letter, that in his judgment it was necessary to seize and occupy the whole of Florida. This suggestion had been considered by Mr. Calhoun and the President, and approved. From this confidential correspondence before he entered Florida, it was understood on *both sides*, that under the order received by him he would occupy the whole province, if an occasion to do so should present itself; as Mr. Calhoun wrote to Governor Bibb, he was 'authorized to conduct the war as he thought best;' and how he 'thought best' to conduct it was then made known to the Executive, and approved, before he struck a blow.

"In the approval given by Mr. Monroe upon the advice of Mr. Calhoun to the suggestions of General Jackson, he acted in strict obedience to the laws of his country. By the secret act of Congress, the President was authorized, under circumstances then existing, to seize and occupy all Florida. Orders had been given which were sufficiently general in their terms to cover that object. The confidential correspondence, and private understanding, made them, so far as regarded the parties, as effectually orders *to take and occupy the Province of Florida as if that object had been declared on their face.*

"Under these circumstances General Jackson entered Florida with a *perfect right*, according to international law, and the constitution and laws of his country, to take possession of the whole territory. He was clothed with all the power of the President, and authorized 'to conduct the war as he thought best.' He had orders as general and comprehensive as words could make them: he had the confidential approbation of the President to his cofidential recommendation to seize Florida: and he entered the

province with the full knowledge that not only justice and policy but the laws of his country, and the orders of the President as publicly and privately explained and understood, would justify him in expelling every Spanish garrison, and extending the jurisdiction of the United States over every inch of its territory.

"'Nevertheless, General Jackson, from his knowledge of the situation of affairs in Florida, expected to find a justification for himself in the conduct of the Spanish authorities. On the contrary, had he found on entering the province that the agents and officers of Spain, instead of instigating, encouraging and supplying the Indians, had used all the means in their power to prevent and put an end to hostilities, he would not have incurred the responsibility of seizing their fortresses and expelling them from the country. But he wrote to the President, and entered upon the campaign with other expectations, and in these he was not disappointed.

"As he approached St. Marks it was ascertained that it was a place of rendezvous and a source of supply for the Indians. Their councils had been held within its walls: its storehouses were appropriated to their use: they had there obtained supplies of ammunition: there they had found a maket for their plunder: and in the commandant's family resided Alexander Arbuthnot, the chief instigator of the war. Moreover, the negroes and Indians under Ambrister threatened to drive out the feeble Spanish garrison and take entire possession of the fort, as a means of protection for themselves and annoyance to the United States. In these circumstances General Jackson found enough to justify him in assuming the responsibility of seizing and occupying that post with an American garrison.

"The Indians had been dispersed, and St. Marks occupied. No facts had as yet appeared which would justify General Jackson in assuming the responsibility of occupying the other Spanish posts in Florida. He considered the war as at an end, and was about to discharge a considerable portion of his force, when he was informed that a portion of the hostile Indians had been received, fed and supplied by the Spanish authorities in Pensacola. He therefore directed his march upon that point. On his advance he received a letter from the governor, denouncing his entry into Florida as a violent outrage on the rights of Spain, requiring his immediate retreat from the Territory, and threatening in case of refusal to use force to expel him. This declaration of hostilities on the part of the Spanish authorities, instead of removing, tended to increase the necessity for the General's advance, because it was manifest to both parties that if the American army then left Florida, the Indians, under the belief that there they would always find a safe retreat, would commence their bloody incursions upon our frontiers with redoubled fury; and General Jackson was warned that if he left any portion of his army to restrain the Indians, and retired with his main force, the Spaniards would be openly united with the Indians to expel the whole, and thus it became as necessary in order to terminate the war to destroy or capture the Spanish force at Pensacola as the Indians themselves. In this attitude of the Spanish governor, and in the fact that the hostile Indians were received, fed, clothed, furnished with munitions of war, and that their plunder was purchased in Pensacola, General Jackson found a justification for seizing that post also, and holding it in the name of the United States.

"St. Augustine was still in the hands of the Spaniards, and no act of the authorities or people of that place was known to General Jackson previous to his return to Tennessee, which would sustain him in assuming the responsibility of occupying that city. However, about the 7th of August, 1818, he received information that the Indians were there also received and supplied. On that day, therefore, he issued an order to General Gaines, directing him to collect the evidences of these facts, and if they were well founded, to take possession of that place. The following is an extract from that order:

"'I have noted with attention Major Twiggs' letter marked No. 5. I contemplated that the agents of Spain or the officers of Fort St. Augustine would excite the Indians to hostility and furnish them with the means. It will be necessary to obtain evidence substantiating this fact, and that the hostile Indians have been fed and furnished from the garrison of St. Augustine. This being obtained, should you deem your force sufficient, you will proceed to take and garrison with American troops, Fort St. Augustine, and hold the garrison prisoners until you hear from the President of the United States, or transport them to Cuba, as in your judgment under existing circumstances you may think best.'

"An order had some time before been given to the officer of ordnance at Charleston, to have in readiness a battery train, and to him General Gaines was referred.

"The order to take St. Augustine has often been adduced as evidence of General Jackson's determination to do as he pleased, without regard to the orders or wishes of his government. Though justifiable on the ground of self-defence, it would never have been issued but for the confidential orders given to General Gaines and Colonel Bankhead, to take possession of Amelia Island forcibly, if not yielded peaceably, and when possessed, to retain and fortify it; and the secret understanding which existed between him and the government, in consequence of which he never doubted that he was acting in compliance with the wishes, and in accordance with the orders and expectations of the President and Secretary of War.

"To show more conclusively the impressions under which General Jackson acted, reference should be had to the fact that, after the capture of the Spanish forts, he instructed Captain Gadsden to prepare and report a plan for the perma-

nent defence of Florida, which was agreeable to the confidential orders to General Gaines and Col. Bankhead before referred to. Of this he informed the Secretary of War in a dispatch dated 2d June, 1818, of which the following is an extract:—

"'Captain Gadsden is instructed to prepare and report on the necessary defences as far as the military reconnoissances he has taken will permit, accompanied with plans of existing works; what additions or improvements are necessary, and what new works should, in his opinion, be erected to *give permanent security to this important territorial addition to our republic.* As soon as the report is prepared, Captain Gadsden will receive orders to repair to Washington City with some other documents which I may wish to confide to his charge.'

"This plan was completed and forwarded to Mr. Calhoun on the 10th of the succeeding August, by Captain Gadsden himself, with a letter from General Jackson, urging the necessity not only of retaining possession of St. Marks, but Pensacola. The following is a part of that letter:

"'Captain Gadsden will also deliver you his report made in pursuance of my order, accompanied with the plans of the fortifications thought necessary for the defence of the Floridas, in connection with the line of defence on our Southern frontier.

"'This was done under the belief that the government will never jeopardize the safety of the Union, or the security of our frontier, by surrendering those posts, and the possession of the Floridas, unless upon a sure guaranty agreeable to the stipulations of the articles of capitulation, that will insure permanent peace, tranquillity and security to our Southern frontier. It is believed that Spain can never furnish this guaranty. As long as there are Indians in Florida, and it is possessed by Spain, they will be excited to war, and the indiscriminate murder of our citizens, by foreign agents combined with the officers of Spain. The duplicity and conduct of Spain for the last six years fully prove this. It was on a belief that the Floridas would be held that my order was given to Captain Gadsden to make the report he has done.'

"Again: 'By Captain Gadsden you will receive some letters lately inclosed to me, detailing the information that the Spaniards at Fort St. Augustine are again exciting the Indians to war against us, and a copy of my order to General Gaines on this subject. It is what I expected, and proves the justice and sound policy of not only holding the posts we are now in possession of, but of possessing ourselves of St. Augustine. This, and this alone can give us peace and security on "our Southern frontier."'

"It is thus clearly shown that in taking possession of St. Marks and Pensacola, and giving orders to take St. Augustine, I was acting within the letter as well as spirit of my orders, and in accordance with the secret understanding between the government and myself, and under a full persuasion that these fortresses would never again be permitted by our government to pass under the dominion of Spain. From the time of writing my confidential letter of the 6th of January to the date of this dispatch, the 10th of August, 1818, I never had an intimation that the wishes of the government had changed, or that less was expected of me, if the occasion should prove favorable, than the occupation of the whole of Florida. On the contrary, either by their direct approval of my measures, or their silence, the President and Mr. Calhoun gave me reason to suppose that I was to be sustained, and that the Floridas after being occupied were to be held for the benefit of the United States. Upon receiving my orders on the 11th of January, I took instant measures to bring into the field a sufficient force to accomplish all the objects suggested in my confidential letter of the 6th, of which I informed the War Department, and Mr. Calhoun in his reply dated 29th January, 1818, after the receipt of my confidential letter, and a full knowledge and approbation of my views says:—

"'The measures you have taken to bring an efficient force into the field are approbated, and a confident hope is entertained that a speedy and successful termination of the Indian war will follow your exertions.'

"Having received further details of my preparations, not only to terminate the Seminole war, but, as the President and his Secretary well knew, *to occupy Florida also*, Mr. Calhoun on the 6th February, writes as follows:—

"'I have the honor to acknowledge the receipt of your letter of the 20th ult., and to acquaint you with the entire approbation of the President of all the measures you have adopted to terminate the rupture with the Indians.'

"On the 13th of May following, with a full knowledge that I intended if a favorable occasion presented itself to occupy Florida, and that the design had the approbation of the President, Mr. Calhoun wrote to Governor Bibb, of Alabama, the letter already alluded to, concluding as follows:—

"'General Jackson is vested with full powers to conduct the war in the manner he may deem best.'

"On the 25th of March, 1818, I informed Mr. Calhoun that I intended to occupy St. Marks, and on the 8th of April I informed him that it was done.

"Not a whisper of disapprobation or of doubt reached me from the government.

"On the 5th May I wrote to Mr. Calhoun that I was about to move upon Pensacola with a view of occupying that place.

"Again, no reply was ever given disapproving or discountenancing this movement.

"On the 2d of June I informed Mr. Calhoun that I had on the 24th May entered Pensacola, and on the 28th had received the surrender of the Barrancas.

"Again no reply was given to this letter expressing any disapproval of these acts.

"In fine, from the receipt of the President's reply to my confidential letter of 6th January, 1818, through Mr. Rhea, until the receipt of the President's private letter, dated 19th July, 1818, I received no instructions or intimations from the government public or private that my operations in Florida were other than such as the President and Secretary of War expected and approved. I had not a doubt that I had acted in every respect in strict accordance with their views, and that without publicly avowing that they had authorized my measures they were ready at all times and under all circumstances to sustain me; and that as there were sound reasons and justifiable cause for taking possession of Florida, they would in pursuance of their private understanding with me retain it as indemnity for the spoliations committed by Spanish subjects on our citizens, and as security for the peace of our Southern frontier. I was willing to rest my vindication for taking the posts on the hostile conduct of their officers and garrisons, bearing all the responsibility myself: but I expected my government would find in their claims upon Spain, and the danger to which our frontier would again be exposed, sufficient reasons for not again delivering them into the possession of Spain.

"It was late in August before I received official information of the decision of the government to restore the posts, and about the same time I saw it stated in the Georgia Journal that the cabinet had been divided in relation to the course pursued by me in Florida; and also an extract of a letter in a Nashville paper, alleging that a movement had been made in the cabinet against me which was attributed to Mr. Crawford, in which extract it is expressly stated that I had been triumphantly vindicated by *Mr. Calhoun* and Mr. Adams. Being convinced that the course I had pursued was justified by considerations of public policy, by the laws of nations, by the state of things to which I have referred, and by the instructions, intimations, and acquiescence of the government, and believing that the latter had been communicated to all the members of the cabinet, I considered that such a movement by Mr. Crawford was founded on considerations foreign to the public interests, and personally inimical to me; and therefore, after these public and explicit intimations of what had occurred in the cabinet, I was prepared to, and did believe that Mr. Crawford was bent on my destruction, and was the author of the movement in the cabinet to which they referred. I the more readily entertained this belief in relation to him (in which I am rejoiced to avail myself of this public occasion to say I did him injustice) because it was impossible that I should suspect that any proposition to punish or censure me could come from either the President or Mr. Calhoun, as I well knew that I had expressed to the President my opinion that Florida ought to be taken, and had offered to take it if he would give me an intimation through Mr. Rhea that it was desirable to do so, which intimation was given; that they had given me orders broad enough to sanction all that was done; that Mr. Calhoun had expressly interpreted those orders as vesting me 'with full power to conduct the war as he (I) might think best;' that they had expressly approved of all my preparations, and in silence witnessed all my operations. Under these circumstances it was impossible for me to believe, whatever change might have taken place in their views of public policy, that either the President or Mr. Calhoun could have originated or countenanced any proposition tending to cast censure upon me, much less to produce my arrest, trial, and punishment.

"If these facts and statements could have left room for a doubt in relation to Mr. Calhoun's approval of my conduct and of his friendship for me, I had other evidence of a nature perfectly conclusive. In August, 1818, Colonel A. P. Hayne, Inspector General of the Southern Division, who had served in this campaign, came to Washington to settle his accounts, and resign his staff appointment in the army. He was the fellow-citizen and friend of Mr. Calhoun, and held constant personal interviews with him for some weeks in settling his accounts. On the 24th September he addressed a letter to me, stating that he had closed his public accounts entirely to his satisfaction, and in relation to public affairs among other things remarks:—

"'The course the administration has thought proper to adopt is to me *inexplicable*. They *retain St. Marks*, and in the same breath *give up* Pensacola. Who can comprehend this? The American nation possesses discernment, and will judge for themselves. Indeed, sir, I fear that Mr. Monroe has on the present occasion yielded to the opinion of those about him. I cannot believe that it is the result of his own honest convictions. Mr. Calhoun certainly thinks with you altogether, although after the decision of the cabinet, he must of course nominally support what has been done.' And in another letter, dated 21st January, 1819, he says: 'Since I last saw you I have travelled through West and East Tennessee, through Kentucky, through Ohio, through the western and eastern part of Pennsylvania, and the whole of Virginia—have been much in Baltimore and Philadelphia, and the united voice of the people of those States and towns (and I have taken great pains to inform myself) approve of your conduct in every respect. And the people of the United States at large entertain precisely the same opinion with the people of those States. So does the administration, to wit: Mr. Monroe, *Mr. Calhoun*, and Mr. Adams. Mr. Monroe is your *friend*. He has *identified* you with himself. After the most mature reflection and deliberation upon all of your operations, he has covered your conduct. But I am candid to confess that he did not adopt this line of conduct (in my mind) as soon as he ought to have done. Mr. Adams has done honor to his country and himself.'

"Colonel Hayne is a man of honor, and did not intend to deceive; I had no doubt, and have none now, that he derived his impressions from conversations with Mr. Calhoun himself; nor have I any doubt that Mr. Calhoun purposely conveyed those impressions that they might be communicated to me. Without other evidence than this letter, how could I have understood Mr. Calhoun otherwise than as approving my whole conduct, and as having defended me in the cabinet? How could I have understood any seeming dissent in his official communications otherwise than as arising from his obligation to give a 'nominal support' to the decision of the cabinet which in reality he disapproved?

"The reply to my confidential letter, the approval of my preparations, the silence of Mr. Calhoun during the campaign, the enmity of Mr. Crawford, the language of the newspapers, the letters of Colonel Hayne, and other letters of similar import from other gentlemen who were on familiar terms with the Secretary of War, left no doubt on my mind that Mr. Calhoun approved of my conduct in the Seminole war 'altogether;' had defended me against an attack of Mr. Crawford in the cabinet, and was, throughout the struggle in Congress so deeply involving my character and fame, my devoted and zealous friend. This impression was confirmed by the personal kindness of Mr. Calhoun towards me, during my visit to this city, pending the proceedings of Congress relative to the Seminole war, and on every after occasion. Nor was such conduct confined to me alone, for however inconsistent with his proposition in the cabinet, that I should 'be punished in some form,' or in the language of Mr. Adams, as to what passed there 'that General Jackson should be brought to trial,' in several conversations with Colonel Richard M. Johnson, while he was preparing the counter report of the Military Committee of the House of Representatives, Mr. Calhoun always spoke of me with respect and kindness, *and approved of my course.*

"So strong was my faith in Mr. Calhoun's friendship that the appointment of Mr. Lacock, shortly after he had made his report upon the Seminole war in the Senate, to an important office, although inexplicable to me, did not shake it.

"I was informed by Mr. Rankin (member of the House of Representatives from Mississippi), and others in 1823 and 1824, once in the presence of Colonel Thomas H. Williams (of Mississippi) of the Senate, that I had blamed Mr. Crawford unjustly and that Mr. Calhoun was the instigator of the attacks made upon me: yet in consequence of the facts and circumstances already recapitulated tending to prove Mr. Calhoun's approval of my course, I could not give the assertion the least credit.

"Again in 1825 Mr. Cobb told me that I blamed Mr. Crawford wrongfully both for the attempt to injure me in the cabinet, and for having an agency in framing the resolutions which he (Mr. Cobb) offered in Congress censuring my conduct in the Seminole war. He stated on the contrary that Mr. Crawford was opposed to those resolutions and always asserted that '*General Jackson had a sufficient defence whenever he chose to make it, and that the attempt to censure him would do him good, and recoil upon its authors;*' yet it was impossible for me to believe that Mr. Calhoun had been my enemy; on the contrary I did not doubt that he had been my devoted friend, not only through all those difficulties, but in the contest for the Presidency which ended in the election of Mr. Adams.

"In the Spring of 1828 the impression of Mr. Calhoun's rectitude and fidelity towards me was confirmed by an incident which occurred during the progress of an effort to reconcile all misunderstanding between him and Mr. Crawford and myself. Colonel James A. Hamilton of New-York inquired of Mr. Calhoun himself, at Washington, 'whether at any meeting of Mr. Monroe's cabinet the propriety of arresting General Jackson for any thing done during the Seminole war had been at any time discussed?' Mr. Calhoun replied, 'Never: such a measure was not thought of, much less discussed. The only point before the cabinet was the answer to be given to the Spanish government.' In consequence of this conversation Colonel Hamilton wrote to Major Lewis, a member of the Nashville committee, that 'the Vice-President, who you know was the member of the cabinet best acquainted with the subject, told me General Jackson's arrest was never thought of, much less discussed.' Information of this statement renewed and strengthened the impression relative to the friendship of Mr. Calhoun, which I had entertained from the time of the Seminole war.

"In a private letter to Mr. Calhoun dated 25th May, 1828, written after the conversation with Colonel Hamilton had been communicated to me, I say in relation to the Seminole war:

"'I can have no wish at this day to obtain an explanation of the orders under which I acted whilst charged with the campaign against the Seminole Indians in Florida. I viewed them when received as plain and explicit, and called for by the situation of the country. I executed them faithfully, and was happy in reply to my reports to the Department of War to receive your approbation for it.'

"Again: 'The fact is, I never had the least ground to believe (previous to the reception of Mr. Monroe's letter of 19th July, 1818) that any difference of opinion between the government and myself existed on the subject of my powers. So far from this, to the communications which I made showing the construction which I placed upon them, there was not only no difference of opinion indicated in the replies of the Executive but as far as I received replies, an entire approval of the measures which I had adopted.'

"This was addressed directly from me to Mr Calhoun, in May, 1828. In his reply Mr. Calhoun does not inform me that I was in error. He does not tell me that he disapproved my con

duct, and thought I ought to have been punished for a violation of orders. He does not inform me that he or any other had proposed in the cabinet council a court of inquiry, or any other court. He says nothing inconsistent with the impression already made upon my mind—nothing which might not have been expected from one who had been obliged to give a 'nominal support' to a decision which he disapproved. His eply, dated 10th July, 1828, is in these words:

"'Any discussion of them' (the orders) 'now, I agree with you, would be unnecessary. They are matters of history, and must be left to the historian as they stand. In fact I never did suppose that the justification of yourself or the government depended on a critical construction of them. It is sufficient for both that they were honestly issued, and honestly executed, without involving the question whether they were executed strictly in accordance with the intention that they were issued. Honest and patriotic motives are all that can be required, and I never doubted that they existed on both sides.'

"It was certainly impossible for me to conceive that Mr. Calhoun had urged in cabinet council a court of inquiry with a view to my ultimate punishment for violation of orders which he admitted were '*honestly executed*,' especially as he *never doubted* that my 'motives' were '*honest and patriotic.*' After this letter I could not have doubted, if I had before, that Mr. Calhoun had zealously vindicated my 'honest and patriotic' acts in Mr. Monroe's cabinet against the supposed attacks of Mr. Crawford, as had long before been announced. I could not have doubted that Mr. Calhoun 'thought with me altogether,' as I had been informed by Colonel Hayne. I could not have conceived that Mr. Calhoun had *ever* called in question my compliance with my orders, when he says he '*never did suppose*' that my '*justification* depended on a critical construction of them,' and 'that it was sufficient that they were honestly executed.'

"By the unlimited authority conferred on me by my orders; by the writing and reception of my confidential letter and the answer thereto advised by Mr. Calhoun; by the positive approval of all my preparatory measures and the silence of the government during my operations; by uncontradicted publications in the newspapers; by positive assurances received through the friends of Mr. Calhoun; by Mr. Calhoun's declaration to Colonel Hamilton; and finally by his own assurance that he never doubted the honesty or patriotism with which I executed my orders, which he '*deemed sufficient*' without inquiring '*whether they were executed strictly in accordance with the intention that they were issued,*' I was authorized to believe and did believe that Mr. Calhoun had been my devoted friend, defending on all occasions, public and private, my whole conduct in the Seminole war. With these impressions I entered upon the discharge of the duties of President, in March, 1829.

"Recent disclosures prove that these impressions were entirely erroneous, and that Mr. Calhoun himself was the author of the proposition made in the cabinet to subject me to a court of inquiry, with a view to my ultimate punishment for a violation of orders.

"My feelings towards Mr. Calhoun continued of the most friendly character until my suspicions of his fairness were awakened by the following incident. The late Marshal of the District of Columbia (Mr. Tench Ringold), conversing with a friend of mine in relation to the Seminole war, spoke in strong terms of Mr. Monroe's support of me; and upon being informed that I had always regarded Mr. Calhoun as my firm and undeviating friend and supporter, and particularly on that occasion, Mr. Ringold replied that *Mr. Calhoun was the first man to move in the cabinet for my punishment, and that he was against me on that subject.* Informed of this conversation, and recurring to the repeated declarations that had been made to me by different persons and at different times, that Mr. Calhoun, and not Mr. Crawford, was the person who had made that movement against me in the cabinet, and observing the mysterious opposition that had shown itself, particularly among those who were known to be the friends and partisans of Mr. Calhoun, and that the measures which I had recommended to the consideration of Congress, and which appeared to have received the approbation of the people, were neglected or opposed in that quarter whence I had a right to believe they would have been brought forward and sustained, I felt a desire to see the written statement which I had been informed Mr. Crawford had made, in relation to the proceedings of the cabinet, that I might ascertain its true character. I sought and obtained it, in the manner heretofore stated, and immediately sent it to Mr. Calhoun, and asked him frankly whether it was possible that the information given in it was correct? His answer, which he has given to the world, indeed, as I have before stated, surprised, nay, astonished me. I had always refused to believe, notwithstanding the various assurances I had received, that Mr. Calhoun could be so far regardless of that duty which the plainest principles of justice and honor imposed upon him, as to propose the punishment of a subordinate officer for the violation of orders which were so evidently discretionary as to permit me as he (Mr. Calhoun) informed Governor Bibb, 'to conduct the war as he may think best.' But the fact that he so acted has been affirmed by all who were present on the occasion, and admitted by himself.*

* Mr. Calhoun in his conversation with Colonel Hamilton, substantially denied that such a proposition as that which he now admits he made, was ever submitted to the cabinet. He is asked "whether at any meeting of Mr. Monroe's cabinet the propriety of arresting General Jackson for any thing done during the Seminole war had been at any time discussed." He replies "Never; such a measure was not thought of, much less discussed: *the only point before the cabinet was the answer*

"That Mr. Calhoun, with his knowledge of facts and circumstances, should have dared to make such a proposition, can only be accounted for from the sacredly confidential character which he attaches to the proceedings of a cabinet council. His views of this subject are strongly expressed in his printed correspondence, page 15. 'I am not at all surprised,' says he, 'that Mr. Crawford should feel that he stands in need of an apology for betraying the deliberations of the cabinet. It is, I believe, not only the first instance in our country, but one of a very few instances in any country, or any age, that an individual has felt himself absolved from the high obligations which honor and duty impose on one situated as he was.' It was under this veil, which he supposed to be for ever impenetrable, that Mr. Calhoun came forward and denounced those measures which he knew were not only impliedly, but positively authorized by the President himself. He proposed to take preparatory steps for the punishment of General Jackson, whose '*honest and patriotic motives he never doubted*,' for the violation of orders which he admits were '*honestly executed*.' That he expected to succeed with his proposition so long as there was a particle of honor, honesty, or prudence left to President Monroe, is not to be imagined. The movement was intended for some future contingency, which perhaps Mr. Calhoun himself only can certainly explain.

"The shape in which this proposition was made is variously stated. Mr. Calhoun, in the printed correspondence, page 15, says: 'I was of the impression that you had exceeded your orders, and acted on your own responsibility, but I neither questioned your patriotism nor your motives. Believing that where orders were transcended, investigation as a matter of course ought to follow, as due in justice to the government and the officer, unless there be strong reasons to the contrary, I came to the [cabinet] meeting under the impression that the usual course ought to be pursued in this case, which I supported by presenting fully and freely all the arguments that occurred to me.'

"Mr. Crawford, in his letter to Mr. Forsyth, published in the same correspondence, page 9, says: 'Mr. Calhoun's proposition in the cabinet was, that General Jackson should be punished in some form, or reprehended in some form, I am not positively certain which.'

"Mr. Adams, in a letter to Mr. Crawford, dated 30th July, 1830, says: 'The main point upon which it was urged that General Jackson should be *brought to trial*, was, that he had violated his orders by taking St. Marks and Pensacola.'

"Mr. Crowninshield, in a letter to Mr. Crawford, dated 25th July, 1830, says: 'I remember too, that Mr. Calhoun was severe upon the conduct of General Jackson, but the words particularly spoken have slipped my memory.'

"From the united testimony it appears that Mr. Calhoun made a proposition for a court of inquiry upon the conduct of General Jackson, upon the charge of having violated his orders in taking St. Marks and Pensacola, with a view to his ultimate trial and punishment, and that he was severe in his remarks upon that conduct. But the President would listen to no such proposition. Mr. Crawford, in his letter to Mr. Calhoun, dated 2d October, 1830, says: 'You remembered the excitement which your proposition produced in the mind and on the feelings of the President, and did not dare to ask him any question tending to revive his recollection of that proposition.' This excitement was very natural. Hearing the very member of his cabinet whom he had consulted upon the subject of General Jackson's confidential letter, and who had advised the answer which had approved beforehand the capture of St. Marks and Pensacola and who on the 8th September, 1818, wrote to General Jackson, that 'St. Marks will be retained till Spain shall be ready to garrison it with a sufficient force, and Fort Gadsden, and any other position in East or West Florida within the Indian country, which may be deemed eligible, will be retained so long as there is any

to be given to the Spanish government." By the last branch of the answer the denial is made to embrace the whole subject in any form it might have assumed, and therefore deprives Mr. Calhoun of all grounds of cavil or escape by alleging that he only proposed a military inquiry, and not an arrest, and that he did not therefore answer the inquiry in the negative. But again when Colonel Hamilton submitted to Mr. Calhoun his recollection of the conversation that Mr. Calhoun might correct it if erroneous, and informed him that he did so because he intended to communicate in to Major Lewis, Mr. Calhoun did not question the correctness of Colonel Hamilton's recollection of the conversation; he does not qualify or alter it; he does not say, as in frankness he was bound to do—"It is true, the proposition to arrest General Jackson was not discussed, but an inquiry into his conduct in that war was discussed on a proposition to that end made by me." He does not say that the answer to the Spanish government was not the only point before the cabinet, but he endeavors, without denying as was alleged by Colonel Hamilton that this part of the conversation was understood between them to be confidential, to prevent him from making it public, and to that end and that alone he writes a letter of ten pages on the sacredness of cabinet deliberations. Why, let us ask, did Mr. Calhoun upon reflection feel so much solicitude to prevent a disclosure of his answer to Colonel Hamilton, which if true could not injure him? At first, although put upon his guard he admits that this part of the conversation was not confidential, although it referred to what was, as well as what was not done in cabinet council. The reason is to be found in his former involutions, and in the fact that the answer was not true, and in his apprehension that if that answer was made public, Mr. Crawford, who entertained the worst opinions of Mr. Calhoun, and who had suffered in General Jackson's opinion on this subject, would immediately disclose the whole truth, as he has since done; and that thus the veil worn out, of the sacredness of cabinet deliberations under which Mr. Calhoun upon second thought had endeavored to conceal himself, would be raised, and he would be exposed to public indignation and scorn. This could alone be the motive for his extreme anxiety to prevent Colonel Hamilton from communicating the result of an inquiry made by him from the best and purest motives, to the persons who had prompted that inquiry from like motives.

danger, which, it is hoped, will afford the desired security,' make a proposition which went to stamp his character with treachery, by the punishment of General Jackson for those very acts, it was impossible that Mr. Monroe should not be excited. He must have been more than human, or less, to have beheld Mr. Calhoun uttering violent philippics against General Jackson for those acts, without the strongest emotion.

"Mr. Calhoun's proposition was rejected, as he knew it would be, and he came from behind the veil of cabinet secrecy all smiles and professions of regard and friendship for General Jackson! It was then that by his deceitful conversations he induced Colonel Hayne and others to inform General Jackson, that so far from thinking that he had violated his orders and ought to be punished, he disapproved and only nominally supported the more friendly decision of the cabinet, and thought with him altogether! There was no half-way feeling in *his* friendship! So complete and entire was the deception, that while General Jackson was passing through Virginia the next winter on his way to Washington, he toasted '*John C. Calhoun*,' as '*an honest man, the noblest work of God.*' Who can paint the workings of the guilty Calhoun's soul when he read that toast!!

"But Mr. Calhoun was not content with the attack made by him upon General Jackson's character and fame in the dark recesses of Mr. Monroe's cabinet. At the next session of Congress the same subject was taken in hand in both houses. Mr. Cobb came forward with his resolutions of censure in the House of Representatives, where, after a long discussion, the assailants were signally defeated. Mr. Lacock headed a committee in the Senate which was engaged in the affair from the 18th December, 1818, to the 24th February, 1819, when they made a report full of bitterness against General Jackson. It charged him with a violation of the laws and constitution of his country; disobedience of orders; disregard of the principles of humanity, and almost every crime which a military man can commit.

"It was not suspected at the time that this report owed any of its bitterness to Mr. Calhoun, yet that such was the fact is now susceptible of the strongest proof!

"While the attacks upon General Jackson were in progress in Congress his presence in the city was thought to be necessary by his friends. Colonel Robert Butler, then in Washington, wrote to him to that effect. A few days afterwards Mr. Calhoun accosted him, and asked him in an abrupt manner why he had written to General Jackson to come to the city. Colonel Butler answered, 'that he might see that justice was done him in person.' Mr. Calhoun turned from him without speaking another word with an air of anger and vexation which made an indelible impression on the colonel's mind. It was obvious enough that he did not desire, out rather feared General Jackson's presence in the city. Colonel Butler's letter to General Jackson, dated the 9th June, 1831, is in these words:

"'When in Washington in the winter of 1818–'19, finding the course which Congress appeared to be taking on the Seminole question, I wrote you that I esteemed it necessary that you should be present at Washington. Having done so, I communicated this fact to our friend Bronaugh, who held the then Secretary of War in high estimation. The succeeding evening, while at the French Minister's, he came to me and inquired in a tone somewhat abrupt, what could induce me to write for General Jackson to come to the city—(Bronaugh having informed him that I had done so)—to which I replied, perhaps as sternly, "*that he may in person have justice done him.*" The Secretary turned on his heel, and so ended the conversation; but there was a something inexplicable in the countenance that subsequent events have given meaning to. After your arrival at Washington, we were on a visit at the Secretary's, and examining a map—(the Yellow Stone expedition of the Secretary's being the subject of conversation)—Mr. Lacock, of the Senate, was announced to the Secretary, who remarked—"Do not let him come in now, General Jackson is here, but will soon be gone, when I can see him." There was nothing strange in all this; but the whispered manner and apparent agitation fastened on my mind the idea that Mr. Calhoun and Lacock understood each other on the Seminole matter. Such were my impressions at the time.'

"On my arrival, however, in January, 1819, Mr. Calhoun treated me with marked kindness. The latter part of Colonel Butler's letter, as to Mr. Lacock, is confirmed by my own recollection that one day when Mr. Calhoun and myself were together in the War Department, the messenger announced Mr. Lacock at the door: Mr. Calhoun, in a hurried manner, pronounced the name of General Jackson, and Mr. Lacock did not come in. This circumstance indicated an intimacy between them, but I inferred nothing from it unfavorable to Mr. Calhoun.

"In speaking of my confidential letter to Mr. Monroe (printed correspondence, page 19), Mr. Calhoun states, that after reading it when received, 'I thought no more of it. Long after, I think it was at the commencement of the next session of Congress, I heard some allusion which brought that letter to my recollection. It was from a quarter which induced me to believe that it came from Mr. Crawford. I called and mentioned it to Mr. Monroe, and found that he had entirely forgotten the letter. After searching some time he found it among some other papers, and read it, as he told me, for the first time.'

"The particular '*quarter*' whence the '*allusion*' which called up the recollection of this confidential letter came, Mr. Calhoun has not thought proper to state. Probably it was Mr. Lacock, who was the friend of Mr. Crawford.

Probably he applied to Mr. Calhoun for information, and Mr. Calhoun went to the President, and requested a sight of that letter that he might communicate its contents to Mr. Lacock. Mr. Lacock was appointed upon the committee on the Seminole war, on the 18th December. On the 21st of that month the recollection of the confidential letter was first in the mind of Mr. Monroe, for on that day, in a letter to General Jackson, he gives an account of its reception, and the disposition made of it. Probably, therefore, it was about the time that Mr. Lacock undertook the investigation of this affair in the Senate, and that it was for his information that Mr. Calhoun called on Mr. Monroe to inquire about this letter.

"Nay, it is *certain* that the existence and contents of this letter *were* about that time *communicated to Mr. Lacock: that he conversed freely and repeatedly with Mr. Calhoun upon the whole subject: that he was informed of all that had passed: the views of the President, of Mr. Calhoun, and the cabinet, and that Mr. Calhoun coincided with Mr. Lacock in all his views.*

"These facts are stated *upon the authority of Mr. Lacock himself.*

"The motives of these secret communications to Mr. Lacock by Mr. Calhoun cannot be mistaken. By communicating the contents of the confidential letter, and withholding the fact that an approving answer had been returned, he wished to impress Mr. Lacock with the belief that General Jackson had predetermined before he entered Florida, to seize the Spanish posts, right or wrong, with orders or without. Acting under this impression, he would be prepared to discredit and disbelieve all General Jackson's explanations and defences, and put the worst construction upon every circumstance disclosed in the investigation. By this perfidy General Jackson was deprived of all opportunity to make an effectual defence. To him Mr. Calhoun was all smiles and kindness. He believed him his friend, seeking by all proper means, in public and private, to shield him from the attacks of his enemies. Having implicit confidence in Mr. Calhoun and the President, he would sooner have endured the tortures of the inquisition than have disclosed their answer to his letter through Mr. Rhea. The tie which he felt, Mr. Calhoun felt not. He did not scruple to use one side of a correspondence to destroy a man, his friend, who confided in him with the faith and affection of a brother—when he knew that man felt bound by obligations from which no considerations short of a knowledge of his own perfidy could absolve him, to hold the other side in eternal silence. General Jackson had no objection to a disclosure of the whole correspondence. There was nothing in it of which he was ashamed, or which on his own account he wished to conceal. Public policy made it inexpedient that the world should know at that time how far the government had approved beforehand of his proceedings. But had he known that Mr. Calhoun was attempting to destroy him by secretly using one side of the correspondence, he would have been justified by the laws of self-defence in making known the other. He saw not, heard not, imagined not, that means so perfidious and dishonorable were in use to destroy him. It never entered his confiding heart that the hand he shook with the cordiality of a warm friend was secretly pointing out to his enemies the path by which they might ambuscade and destroy him. He was incapable of conceiving that the honeyed tongue, which to him spake nothing but kindness, was secretly conveying poison into the ears of Mr. Lacock, and other members of Congress. It could not enter his mind that his confidential letters, the secrets of the cabinet, and the opinions of its members, were all secretly arrayed against him by the friend in whom he implicitly confided, misinterpreted and distorted, without giving him an opportunity for self-defence or explanation.

"Mr. Calhoun's object was accomplished. Mr. Lacock made a report far transcending in bitterness any thing which even in the opinion of General Jackson's enemies the evidence seemed to justify. This extraordinary and unaccountable severity is now explained. It proceeded from the secret and perfidious representations of Mr. Calhoun, based on General Jackson's confidential letter. Mr. Lacock ought to be partially excused, and stand before the world comparatively justified. For most of the injustice done by his report to the soldier who had risked all for his country, Mr. Calhoun *is the responsible man.*

"As dark as this transaction is, a shade is yet to be added. It was not enough that General Jackson had been deceived and betrayed by a professing friend; that the contents of his confidential correspondence had been secretly communicated to his open enemies, while all information of the reply was withheld: it was not enough that an official report overflowing with bitterness had gone out to the world to blast his fame, which must stand for ever recorded in the history of his country. Lest some accident might expose the evidences of the understanding under which he acted, and the duplicity of his secret accuser, means must be taken to procure the destruction of the answer to the confidential letter through Mr. Rhea. They were these. About the time Mr. Lacock made his report General Jackson and Mr. Rhea were both in the city of Washington. Mr. Rhea called on General Jackson, as he said, at the request of Mr. Monroe, and begged him on his return home to burn his reply. He said the President feared that by the death of General Jackson, or some other accident, it might fall into the hands of those who would make an improper use of it. He therefore conjured him by the friendship which had always existed between them (and by his obligations as a brother

mason) to destroy it on his return to Nashville. Believing Mr. Monroe and Mr. Calhoun to be his devoted friends, and not deeming it *possible* that any incident could occur which would require or justify its use, he gave Mr. Rhea the promise he solicited, and accordingly after his return to Nashville he burnt Mr. Rhea's letter, and on his letter-book opposite the copy of his confidential letter to Mr. Monroe made this entry:—

"'*Mr. Rhea's letter in answer is burnt this 12th April*, 1819.'

"Mr. Calhoun's management was thus far completely triumphant. He had secretly assailed General Jackson in cabinet council, and caused it to be publicly announced that he was his friend. While the confiding soldier was toasting him as 'an honest man, the noblest work of God,' he was betraying his confidential correspondence to his enemy, and laying the basis of a document which was intended to blast his fame and ruin his character in the estimation of his countrymen. Lest accident should bring the truth to light, and expose his duplicity, he procures through the President and Mr. Rhea the destruction of the approving answer to the confidential letter. Mr. Rhea was an old man and General Jackson's health feeble. In a few years all who were supposed to have any knowledge of the reply would be in their graves. Every trace of the approval given beforehand by the government to the operations of General Jackson would soon be obliterated, and the undivided responsibility would forever rest on his head. At least, should accident or policy bring to light the duplicity of Mr. Calhoun, he might deny all knowledge of this reply, and challenge its production. He might defend his course in the cabinet and extenuate his disclosures to Mr. Lacock, by maintaining before the public that he had always believed General Jackson violated his orders and ought to have been punished. At the worst, the written reply if once destroyed could never be recalled from the flames; and should General Jackson still be living, his assertion might not be considered more conclusive than Mr. Calhoun's denial. In any view it was desirable to him that this letter should be destroyed, and through his management, as is verily believed, it was destroyed.

"Happily however for the truth of history and the cause of public justice, the writer of the reply is still alive; and from a journal kept at the time, is able to give an accurate account of this transaction. He testifies directly to the writing of the letter, to its contents, and the means taken to secure its destruction. Judge Overton, to whom the letter was confidentially shown, testifies directly to the existence of the letter, and to the fact that General Jackson afterwards told him it was destroyed.

"These, with the statement of General Jackson himself, and the entry in his letter-book which was seen by several persons many years ago, fix these facts beyond a doubt.

"Certainly the history of the world scarcely presents a parallel to this transaction. It has been seen with what severity Mr. Calhoun denounced Mr. Crawford for revealing the secret proceedings of the cabinet: with what justice may a retort of tenfold severity be made upon him, when he not only reveals to Mr. Lacock the proceedings of the cabinet, but the confidential letter of a confiding friend, not for the benefit of that friend, but through misrepresentation of the transaction and concealment of the reply, to aid his enemies in accomplishing his destruction. It was doubtless expected that Mr. Lacock would produce a document which would overwhelm General Jackson and destroy him in public estimation. In that event the proceedings of the cabinet would no longer have been held sacred. The erroneous impression made on the public mind would have been corrected, and the world have been informed that Mr. Calhoun not only disapproved the acts of General Jackson, but had in the cabinet attempted in vain to procure his punishment. As the matter stood, the responsibility of attacking the General rested on Mr. Crawford, and had the decision of the people been different, the responsibility of *defending* him would have been thrown exclusively upon Mr. Adams, and Mr. Calhoun would have claimed the merit of the attack. But until the public should decide, it was not prudent to lose the friendship of General Jackson, which might be of more service to Mr. Calhoun than the truth. It was thus at the sacrifice of every principle of honor and friendship that Mr. Calhoun managed to throw all responsibility on his political rivals, and profit by the result of these movements whatever it might be. It cannot be doubted, however, that Mr. Calhoun expected the entire prostration of General Jackson, and managed to procure the destruction of Mr. Rhea's letter, for the purpose of disarming the friend he had betrayed, that he might, with impunity when the public should have pronounced a sentence of condemnation, have come forward and claimed the merit of having been the first to denounce him.

"The people however sustained General Jackson against the attacks of all his enemies, public and private, open and secret, and therefore it became convenient for Mr. Calhoun to retain his mask, to appear as the friend of one whom the people had pronounced their friend, and to let Mr. Crawford bear the unjust imputation of having assailed him in the cabinet.

"It must be confessed that the mask was worn with consummate skill. Mr. Calhoun was understood by all of General Jackson's friends to be his warm and able defender. When, in 1824, Mr. Calhoun was withdrawn from the lists as a candidate for the Presidency, the impression made on the friends of General Jackson was that he did it to favor the election of their favorite, when it is believed to be susceptible of proof that he secretly flattered the friends of Mr. Adams with the idea that he was

with them. It is certain that for the Vice-Presidency he continued to secure nearly all the Adams votes, most of the Jackson votes, and even half of the Clay votes in Kentucky. But never did the friends of General Jackson doubt his devotion to their cause in that contest, until the publication of his correspondence with General Jackson. In a note, page 7, he undeceives them by saying:

"'When my name was withdrawn from the list of presidential candidates, I assumed a perfectly neutral position between General Jackson and Mr. Adams. I was decidedly opposed to a congressional caucus, as both those gentlemen were also, and as I bore very friendly personal and political relations to both, I would have been well satisfied with the election of either.'

"I have now given a faithful detail of the circumstances and facts which transpired touching my movements in Florida, during the Seminole campaign.

"When Mr. Calhoun was secretly misinterpreting my views and conduct through Mr. Speer to the citizens of South Carolina, I had extended to him my fullest confidence, inasmuch as I consulted him as if he were one of my cabinet, showed him the written rules by which my administration was to be governed, which he apparently approved, received from him the strongest professions of friendship, so much so that I would have scorned even a suggestion that he was capable of such unworthy conduct.

"ANDREW JACKSON."

Such is the paper which General Jackson left behind him for publication, and which is so essential to the understanding of the events of the time. From the rupture between General Jackson and Mr. Calhoun (beginning to open in 1830, and breaking out in 1831), dates calamitous events to this country, upon which history cannot shut her eyes, and which would be a barren relation without the revelation of their cause. Justice to Mr. Monroe (who seemed to hesitate in the cabinet about the proposition to censure or punish Gen. Jackson), requires it to be distinctly brought out that he had either never read, or had entirely forgotten General Jackson's confidential letter, to be answered through the venerable representative from Tennessee (Mr. John Rhea), and the production of which in the cabinet had such a decided influence on Mr. Calhoun's proposition—and against it. This is well told in the letter of Mr. Crawford to Mr. Forsyth—is enforced in the "Exposition," and referred to in the "correspondence," but deserves to be reproduced in Mr. Crawford's own words. He says: "Indeed, my own views on the subject had undergone a material change after the cabinet had been convened. Mr. Calhoun made some allusion to a letter the General had written to the President, who had forgotten that he had received such a letter, but said if he had received such an one, he could find it; and went directly to his cabinet and brought the letter out. In it General Jackson approved of the determination of the government to break up Amelia Island and Galveston; and gave it also as his opinion that the Floridas should be taken by the United States. He added it might be a delicate matter for the Executive to decide; but if the President approved of it, he had only to give a hint to some confidential member of Congress, say Mr. Johnny Ray (Rhea), and he would do it, and take the responsibility of it on himself. I asked the President if the letter had been answered. He replied, No; for that he had no recollection of having received it. I then said that I had no doubt that General Jackson, in taking Pensacola, believed he was doing what the Executive wished. After that letter was produced unanswered I should have opposed the infliction of punishment upon the General, who had considered the silence of the President as a tacit consent. Yet it was after this letter was produced and read that Mr. Calhoun made his proposition to the cabinet for punishing the General. You may show this letter to Mr. Calhoun, if you please." It was shown to him by General Jackson, as shown in the "correspondence," and in the "Exposition;" and is only reproduced here for the sake of doing justice to Mr. Monroe.

CHAPTER LIV.

BREAKING UP OF THE CABINET, AND APPOINTMENT OF ANOTHER.

THE publication of Mr. Calhoun's pamphlet was quickly followed by an event which seemed to be its natural consequence—that of a breaking up, and reconstructing the President's cabinet. Several of its members classed as the political friends of Mr. Calhoun, and could hardly expect to remain as ministers to General Jackson while adhering to that gentleman. The Secre-

tary of State, Mr. Van Buren, was in the category of future presidential aspirants; and in that character obnoxious to Mr. Calhoun, and became the cause of attacks upon the President. He determined to resign; and that determination carried with it the voluntary, or obligatory resignations of all the others—each one of whom published his reasons for his act. Mr. Eaton, Secretary at War, placed his upon the ground of original disinclination to take the place, and a design to quit it at the first suitable moment—which he believed had now arrived. Mr. Ingham, Secretary of the Treasury, Mr. Branch, of the Navy, and Mr. Berrien, Attorney General, placed theirs upon the ground of compliance with the President's wishes. Of the three latter, the two first classed as the friends of Mr. Calhoun; the Attorney General, on this occasion, was considered as favoring him, but not of his political party. The unpleasant business was courteously conducted—transacted in writing as well as in personal conversations, and all in terms of the utmost decorum. Far from attempting to find an excuse for his conduct in the imputed misconduct of the retiring Secretaries, the President gave them letters of respect, in which he bore testimony to their acceptable deportment while associated with him, and placed the required resignations exclusively on the ground of a determination to reorganize his cabinet. And, in fact, that determination became unavoidable after the appearance of Mr. Calhoun's pamphlet. After that Mr. Van Buren could not remain, as being viewed under the aspect of "Mordecai, the Jew, sitting at the king's gate." Mr. Eaton, as his supporter, found a reason to do what he wished, in following his example. The supporters of Mr. Calhoun, howsoever unexceptionable their conduct had been, and might be, could neither expect, nor desire, to remain among the President's confidential advisers after the broad rupture with that gentleman. Mr. Barry, Postmaster General, and the first of that office who had been called to the cabinet councils, and classing as friendly to Mr. Van Buren, did not resign, but soon had his place vacated by the appointment of minister to Spain. Mr. Van Buren's resignation was soon followed by the appointment of minister to London; and Mr. Eaton was made Governor of Florida; and, on the early death of Mr. Barry, became his successor at Madrid.

The new cabinet was composed of Edward Livingston of Louisiana, Secretary of State; Louis McLane of Delaware (recalled from the London mission for that purpose), Secretary of the Treasury; Lewis Cass of Ohio, Secretary at War; Levi Woodbury of New Hampshire, Secretary of the Navy; Amos Kendall of Kentucky, Postmaster General; Roger Brooke Taney of Maryland, Attorney General. This change in the cabinet made a great figure in the party politics of the day, and filled all the opposition newspapers, and had many sinister reasons assigned for it—all to the prejudice of General Jackson, and Mr. Van Buren — to which neither of them replied, though having the easy means of vindication in their hands—the former in the then prepared "Exposition" which is now first given to the public—the latter in the testimony of General Jackson, also first published in this THIRTY YEARS' VIEW, and in the history of the real cause of the breach between General Jackson and Mr. Calhoun, which the "Exposition" contains. Mr. Crawford was also sought to be injured in the published "correspondence," chiefly as the alleged divulger, and for a wicked purpose, of the proceedings in Mr. Monroe's cabinet in relation to the proposed military court on General Jackson. Mr. Calhoun arraigned him as the divulger of that cabinet secret, to the faithful keeping of which, as well as of all the cabinet proceedings, every member of that council is most strictly enjoined. Mr. Crawford's answer to this arraignment was brief and pointed. He denied the divulgation—affirmed that the disclosure had been made immediately after the cabinet consultation, in a letter sent to Nashville, Tennessee, and published in a paper of that city, in which the facts were reversed—Mr. Crawford being made the mover of the court of inquiry proposition, and Mr. Calhoun the defender of the General; and he expresed his belief that Mr. Calhoun procured that letter to be written and published, for the purpose of exciting General Jackson against him; (which belief the Exposition seems to confirm)—and declaring that he only spoke of the cabinet proposition after the publication of that letter, and for the purpose of contradicting it, and telling the fact, that Mr. Calhoun made the proposition for the

court, and that Mr. Adams and himself resisted, and defeated it. His words were: "My apology for having disclosed what passed in a cabinet meeting, is this: In the summer after that meeting, an extract of a letter from Washington was published in a Nashville paper, in which it was stated that I had proposed to arrest General Jackson, but that he was triumphantly defended by Mr. Calhoun and Mr. Adams. This letter I have always believed was written by Mr. Calhoun, or by his direction. It had the desired effect. General Jackson became extremely inimical to me, and friendly to Mr. Calhoun. In stating the arguments of Mr. Adams to induce Mr. Monroe to support General Jackson's conduct throughout, adverting to Mr. Monroe's apparent admission, that if a young officer had acted so, he might be safely punished, Mr. Adams said—that if General Jackson had acted so, that if he had been a subaltern officer, *shooting was too good for him.* This, however, was said with a view of driving Mr. Monroe to an unlimited support of what General Jackson had done, and not with an unfriendly view to the General. Mr. Calhoun's proposition in the cabinet was, that General Jackson should be punished in some form, I am not positive which. As Mr. Calhoun did not propose to *arrest* General Jackson, I feel confident that I could not have made use of *that* word in my relation to you of the circumstances which transpired in the cabinet." This was in the letter to Mr. Forsyth, of April 30th, 1830, and which was shown to General Jackson, and by him communicated to Mr. Calhoun; and which was the second thing that brought him to suspect Mr. Calhoun, having repulsed all previous intimations of his hostility to the General, or been quieted by Mr. Calhoun's answers. The Nashville letter is strongly presented in the "Exposition" as having come from Mr. Calhoun, as believed by Mr. Crawford.

Upon the publication of the "correspondence," the *Telegraph*, formerly the Jackson organ, changed its course, as had been revealed to Mr. Duncanson—came out for Mr. Calhoun, and against General Jackson and Mr. Van Buren, followed by all the affiliated presses which awaited its lead. The *Globe* took the stand for which it was established; and became the faithful, fearless, incorruptible, and powerful supporter of General Jackson and his administration, in the long, vehement, and eventful contests in which he became engaged

CHAPTER LV.

MILITARY ACADEMY.

The small military establishment of the United States seemed to be almost in a state of dissolution about this time, from the frequency of desertion; and the wisdom of Congress was taxed to find a remedy for the evil. It could devise no other than an increase of pay to the rank and file and non-commissioned officers; which upon trial, was found to answer but little purpose. In an army of 6000 the desertions were 1450 in the year; and increasing. Mr. Macon from his home in North Carolina, having his attention directed to the subject by the debates in Congress, wrote me a letter, in which he laid his finger upon the true cause of these desertions, and consequently showed what should be the true remedy. He wrote thus:

"Why does the army, of late years, desert more than formerly? Because the officers have been brought up at West Point, and not among the people. Soldiers desert because not attached to the service, or not attached to the officers. West Point cadets prevent the promotion of good sergeants, and men cannot like a service which denies them promotion, nor like officers who get all the commissions. The increase of pay will not cure the evil, and nothing but promotion will. In the Revolutionary army, we had many distinguished officers, who entered the army as privates."

This is wisdom, and besides carrying conviction for the truth of all it says, it leads to reflections upon the nature and effects of our national military school, which extend beyond the evil which was the cause of writing it. Since the act of 1812, which placed this institution upon its present footing, giving its students a legal right to appointment (as constructed and practised), it may be assumed that there is not a government in Europe, and has been none since the commencement of the French revolution (when the nobles had pretty nearly a monopoly of army appointments), so unfriendly to the rights of the people, and giving such un-

due advantages to some parts of the community over the rest. Officers can now rise from the ranks in all the countries of Europe—in Austria, Russia, Prussia, as well as in Great Britain, of which there are constant and illustrious examples. Twenty-three marshals of the empire rose from the ranks—among them Ney, Massena, Oudinot, Murat, Soult, Bernadotte. In Great Britain, notwithstanding her Royal Military College, the largest part of the commissions are now given to citizens in civil life, and to non-commissioned officers. A return lately made to parliament shows that in eighteen years—from 1830 to 1847—the number of citizens who received commissions, was 1,266; the number of non-commissioned officers promoted, was 446; and the number of cadets appointed from the Royal Military College was 473. These citizen appointments were exclusive of those who purchased commissions—another mode for citizens to get into the British army, and which largely increases the number in that class of appointments—sales of commissions, with the approbation of the government, being there valid. But exclusive of purchased commissions during the same period of eighteen years, the number of citizens appointed, and of non-commissioned officers promoted, were, together, nearly four times the number of government cadets appointed. Now, how has it been in our service during any equal number of years, or all the years, since the Military Academy got into full operation under the act of 1812? I confine the inquiry to the period subsequent to the war of 1812, for during that war there were field and general officers in service who came from civil life, and who procured the promotion of many meritorious non-commissioned officers; the act not having at first been construed to exclude them. How many? Few or none, of citizens appointed, or non-commisioned officers promoted —only in new or temporary corps—the others being held to belong to the government cadets.

I will mention two instances coming within my own knowledge, to illustrate the difficulty of obtaining a commission for a citizen in the regular regiments—one the case of the late Capt. Hermann Thorn, son of Col. Thorn, of New-York. The young man had applied for the place of cadet at West Point; and not being able to obtain it, and having a strong military turn, he sought service in Europe, and found it in Austria; and was admitted into a hussar regiment on the confines of Turkey, without commission, but with the pay, clothing, and ration of a corporal; with the privilege of associating with officers, and a right to expect a commission if he proved himself worthy. These are the exact terms, substituting sergeant for corporal, on which cadets were received into the army, and attached to companies, in Washington's time. Young Thorn proved himself to be worthy; received the commission; rose in five years to the rank of first lieutenant; when, the war breaking out between the United States and Mexico, he asked leave to resign, was permitted to do so, and came home to ask service in the regular army of the United States. His application was made through Senator Cass and others, he only asking for the lowest place in the gradation of officers, so as not to interfere with the right of promotion in any one. The application was refused on the ground of illegality, he not having graduated at West Point. Afterwards I took up the case of the young man, got President Polk to nominate him, sustained the nomination before the Senate; and thus got a start for a young officer who soon advanced himself, receiving two brevets for gallant conduct and several wounds in the great battles of Mexico; and was afterwards drowned, conducting a detachment to California, in crossing his men over the great Colorado of the West.

Thus Thorn was with difficulty saved. The other case was that of the famous Kit Carson also nominated by President Polk. I was not present to argue his case when he was rejected, and might have done no good if I had been, the place being held to belong to a cadet that was waiting for it. Carson was rejected because he did not come through the West Point gate. Being a patriotic man, he has since led many expeditions of his countrymen, and acted as guide to the United States officers, in New Mexico, where he lives. He was a guide to the detachment that undertook to rescue the unfortunate Mrs. White, whose fate excited so much commiseration at the time; and I have the evidence that if he had been commander, the rescue would have been effected, and the unhappy woman saved from massacre.

This rule of appointment (the graduates of the academy to take all) may now be considered the law of the land, so settled by construction

and senatorial acquiescence; and consequently that no American citizen is to enter the regular army except through the gate of the United States Military Academy; and few can reach that gate except through the weight of a family connection, a political influence, or the instrumentality of a friend at court. Genius in obscurity has no chance; and the whole tendency of the institution is to make a governmental, and not a national army. Appointed cadet by the President, nominated officer by him, promoted upon his nomination, holding commission at his pleasure, receiving his orders as law, looking to him as the fountain of honor, the source of preferment, and the dispenser of agreeable and profitable employment—these cadet officers must naturally feel themselves independent of the people, and dependent upon the President; and be irresistibly led to acquire the habits and felings which, in all ages, have rendered regular armies obnoxious to popular governments.

The instinctive sagacity of the people has long since comprehended all this, and conceived an aversion to the institution which has manifested itself in many demonstrations against it —sometimes in Congress, sometimes in the State legislatures, always to be met, and triumphantly met, by adducing Washington as the father and founder of the institution.—No adduction could be more fallacious. Washington is no more the father of the present West Point than he is of the present Mount Vernon. The West Point of his day was a school of engineering and artillery, and nothing more; the cadet of his day was a young soldier, attached to a company, and serving with it in the field and in the camp, "with the pay, clothing, and ration of sergeant" (act of 1794); and in the intervals of active service, if he had shown an inclination for the profession, and a capacity for its higher branches, then he was sent, in the "discretion" of the President, to West Point, to take instruction in those higher branches, namely, artillery and engineering, and nothing more. All the drills both of officer and private—all the camp duty—all the trainings in the infantry, the cavalry, and the rifle —were then left to be taught in the field and the camp—a better school than any academy; and under officers who were to lead them into action—better teachers than any school-room professors. And all without any additional expense to the United States.

All was right in the time of Washington, and afterwards, up to the act of 1812. None became cadets then but those who had a stomach for the hardships, as well as taste for the pleasures of a soldier's life—who, like the Young Norval on the Grampian Hills, had felt the soldier's blood stir in their veins, and longed to be off to the scene of war's alarms, instead of standing guard over flocks and herds. Cadets were not then sent to a superb school, with the emoluments of officers, to remain four years at public expense, receiving educations for civil as well as military life, with the right to have commissions and be provided for by the government; or with the secret intent to quit the service as soon as they could do better—which most of them soon do. The act of 1812 did the mischief; and that insidiously and by construction, while ostensibly keeping up the old idea of cadets serving with their companies, and only detached when the President pleased, to get instruction at the academy. It runs thus: "The cadets heretofore appointed in the service of the United States, whether of artillery, cavalry, riflemen, or infantry, or may be in future appointed or hereinafter provided, shall at no time exceed 250; that they may be attached, at the discretion of the President of the United States as students to the Military Academy; and be subject to the established regulations thereof."

The deception of this clause is in keeping up the old idea of these cadets being with their companies, and by the judgment of the President detached from their companies, and attached, as students, to the Military Academy. The President is to exercise a "discretion," by which the cadet is transferred for a while from his company to the school, to be there as a student; that is to say, like a student, but still retaining his original character of *quasi* officer in his company. This change from camp to school, upon the face of the act, was to be, as formerly, a question for the President to decide, dependent for its solution upon the military indications of the young man's character, and his capacity for the higher branches of the service; and this only permissive in the President. He "may" attach, &c. Now, all this is illusion. Cadets are not sent to companies, whether of artillery, infantry, cavalry, or riflemen. The President exercises no "discretion" about detaching them from their company and attach-

ng them as students. They are appointed as students, and go right off to school, and get four years' education at the public expense, whether they have any taste for military life, or not. That is the first large deception under the act: others follow, until it is all deception. Another clause says, the cadet shall "sign articles, with the consent of his parent or guardian, to serve five years, unless sooner discharged." This is deceptive, suggesting a service which has no existence, and taking a bond for what is not to be performed. It is the language of a soldier's enlistment, where there is no enlistment; and was a fiction invented to constitutionalize the act. The language makes the cadet an enlisted soldier, bound to serve the United States the usual soldier's term, when this paper soldier—this apparent private in the ranks—is in reality a gentleman student, with the emoluments of an officer, obtaining education at public expense, instead of carrying a musket in the ranks. The whole clause is an illusion, to use no stronger term, and put in for a purpose which the legislative history of the day well explains; and that was, to make the act constitutional on its face, and enable it to get through the forms, and become a law. There were members who denied the constitutional right of Congress to establish this national eleemosynary university; and others who doubted the policy and expediency of officering the army in this manner. To get over these objections, the selection of the students took the form, in the statute, of a soldier's enlistment; and in fact they sign articles of enlistment, like recruits, but only to appease the constitution and satisfy scruples; and I have myself, in the early periods of my service in the Senate, seen the original articles brought into secret session and exhibited, to prove that the student was an enlisted soldier, and not a student, and therefore constitutionally in service. The term of five years being found to be no term of service at all, as the student might quit the service within a year after his education, which many of them did, it was extended to eight; but still without effect, except in procuring a few years of unwilling service from those who mean to quit; as the greater part do. I was told by an officer in the time of the Mexican war that, of thirty-six cadets who had graduated and been commissioned at the same time with himself, there were only about half a dozen then in service; so that this great national establishment is mainly a school for the gratuitous education of those who have influence to get there. The act provides that these students are to be instructed in the lower as well as the higher branches of the military art; they are to be "trained and taught all the duties incident to a regular camp." Now, all this training and teaching, and regular camp duty, was done in Washington's time in the regular camp itself, and about as much better done as substance is better than form, and reality better than imitation, with the advantage of training each officer to the particular arm of the service to which he was to belong, and in which he would be expected to excel.

Gratuitous instruction to the children of the living is a vicious principle, which has no foundation in reason or precedent. Such instruction, to the children of those who have died for their country, is as old as the first ages of the Grecian republics, as we learn from the oration which Thucydides puts into the mouth of Pericles at the funeral of the first slain of the Peloponnesian war: and as modern as the present British Military Royal Academy; which, although royal, makes the sons of the living nobility and gentry pay; and only gives gratuitous instruction and support to the sons of those who have died in the public service. And so, I believe, of other European military schools.

These are vital objections to the institution; but they do not include the high practical evil which the wisdom of Mr. Macon discerned, and with which this chapter opened—namely, a monopoly of the appointments. That is effected in the fourth section, not openly and in direct terms (for that would have rendered the act unconstitutional on its face), but by the use of words which admit the construction and the practice, and therefore make the law, which now is, the legal right of the cadet to receive a commission who has received the academical diploma for going through all the classes. This gives to these cadets a monopoly of the offices, to the exclusion of citizens and non-commissioned officers; and it deprives the Senate of its constitutional share in making these appointments. By a "regulation," the academic professors are to recommend at each annual examination, five cadets in each class, on account of their particu-

lar merit, whom the President is to attach to companies. This expunges the Senate, opens the door to that favoritism which natural parents find it hard to repress among their own children, and which is proverbial among teachers. By the constitution, and for a great public purpose, and not as a privilege of the body, the Senate is to have an advising and consenting power over the army appointments: by practice and construction it is not the President and Senate, but the President and the academy who appoint the officers. The President sends the student to the academy: the academy gives a diploma, and that gives him a right to the commission—the Senate's consent being an obligatory form. The President and the academy are the real appointing power, and the Senate nothing but an office for the registration of their appointments. And thus the Senate, by construction of a statute and its own acquiescence, has ceased to have control over these appointments: and the whole body of army officers is fast becoming the mere creation of the President and of the military academy. The effect of this mode of appointment will be to create a governmental, instead of a national army; and the effect of this exclusion of non-commissioned officers and privates from promotion, will be to degrade the regular soldier into a mercenary, serving for pay without affection for a country which dishonors him. Hence the desertions and the correlative evil of diminished enlistments on the part of native-born Americans.

Courts of law have invented many fictions to facilitate trials, but none to give jurisdiction. The jurisdiction must rest upon fact, and so should the constitutionality of an act of Congress; but this act of 1812 rests its constitutionality upon fictions. It is a fiction to suppose that the cadet is an enlisted soldier—a fiction to suppose that he is attached to a company and thence transferred, in the "discretion" of the President, to the academy—a fiction to suppose that he is constitutionally appointed in the army by the President and Senate. The very title of the act is fictitious, giving not the least hint, not even in the convenient formula of "other purposes" of the great school it was about to create.

It is entitled, "An act making further provision for the corps of engineers;" when five out of the six sections which it contains go to make further provision for two hundred and fifty students at a national military and civil university. As now constituted, our academy is an imitation of the European military schools, which create governmental and not national officers—which make routine officers, but cannot create military genius—and which block up the way against genius—especially barefooted genius—such as this country abounds in, and which the field alone can develope. "My children,"—the French generals were accustomed to say to the young conscripts during the Revolution—"My children, there are some captains among you, and the first campaign will show who they are, and they shall have their places." And such expressions, and the system in which they are founded, have brought out the military genius of the country in every age and nation, and produced such officers as the schools can never make.

The adequate remedy for these evils is to repeal the act of 1812, and remit the academy to its condition in Washington's time, and as enlarged by several acts up to 1812. Then no one would wish to become a cadet but he that had the soldier in him, and meant to stick to his profession, and work his way up from the "pay, ration, and clothing of a sergeant," to the rank of field-officer or general. Struggles for West Point appointments would then cease, and the boys on the "Grampian Hills" would have their chance. This is the adequate remedy. If that repeal cannot be had, then a subordinate and half-way remedy may be found in giving to citizens and non-commissioned officers a share of the commissions, equal to what they get in the British service, and restoring the Senate to its constitutional right of rejecting as well as confirming cadet nominations.

These are no new views with me. I have kept aloof from the institution. During the almost twenty years that I was at the head of the Senate's Committee on Military Affairs, and would have been appropriately a "visitor" at West Point at some of the annual examinations, I never accepted the function, and have never even seen the place. I have been always against the institution as now established, and have long intended to bring my views of it before the country; and now fulfil that intention.

CHAPTER LVI.

BANK OF THE UNITED STATES.—NON-RENEWAL OF CHARTER.

From the time of President Jackson's intimations against the recharter of the Bank, in the annual message of 1829, there had been a ceaseless and pervading activity in behalf of the Bank in all parts of the Union, and in all forms —in the newspapers, in the halls of Congress, in State legislatures, even in much of the periodical literature, in the elections, and in the conciliation of presses and individuals—all conducted in a way to operate most strongly upon the public mind, and to conclude the question in the forum of the people before it was brought forward in the national legislature. At the same time but little was done, or could be done on the other side. The current was all setting one way. I determined to raise a voice against it in the Senate, and made several efforts before I succeeded—the thick array of the Bank friends throwing every obstacle in my way, and even friends holding me back for the regular course, which was to wait until the application for the renewed charter to be presented; and then to oppose it. I foresaw that, if this course was followed, the Bank would triumph without a contest—that she would wait until a majority was installed in both Houses of Congress—then present her application—hear a few barren speeches in opposition;—and then gallop the renewed charter through. In the session of 1830, '31, I succeeded in creating the first opportunity of delivering a speech against it; it was done a little irregularly by submitting a negative resolution against the renewal of the charter, and taking the opportunity while asking leave to introduce the resolution, to speak fully against the re-charter. My mind was fixed upon the character of the speech which I should make—one which should avoid the beaten tracks of objection, avoid all settled points, avoid the problem of constitutionality—and take up the institution in a practical sense, as having too much power over the people and the government,—over business and politics—and too much disposed to exercise that power to the prejudice of the freedom and equality which should prevail in a republic, to be allowed to exist in our country. But I knew it was not sufficient to pull down: we must build up also The men of 1811 had committed a fatal error, when most wisely refusing to re-charter the institution of that day, they failed to provide a substitute for its currency, and fell back upon the local banks, whose inadequacy speedily made a call for the re-establishment of a national bank. I felt that error must be avoided—that another currency of general circulation must be provided to replace its notes; and I saw that currency in the gold coin of the constitution, then an ideal currency in the United States, having been totally banished for many years by the erroneous valuation adopted in the time of Gen. Hamilton, Secretary of the Treasury. I proposed to revive that currency, and brought it forward at the conclusion of my first speech (February, 1831) against the Bank, thus:

"I am willing to see the charter expire, without providing any substitute for the present bank. I am willing to see the currency of the federal government left to the hard money mentioned and intended in the constitution; I am willing to have a hard money government, as that of France has been since the time of *assignats* and *mandats*. Every species of paper might be left to the State authorities, un recognized by the federal government, and only touched by it for its own convenience when equivalent to gold and silver. Such a currency filled France with the precious metals, wher England, with her overgrown bank, was a prey to all the evils of unconvertible paper. It furnished money enough for the imperial government when the population of the empire was three times more numerous, and the expense of government twelve times greater, than the population and expenses of the United States; and, when France possessed no mines of gold or silver, and was destitute of the exports which command the specie of other countries. The United States possess gold mines, now yielding half a million per annum, with every prospect of equalling those of Peru. But this is not the best dependence. We have what is superior to mines, namely, the exports which command the money of the world; that is to say, the food which sustains life, and the raw materials which sustain manufactures. Gold and silver is the best currency for a republic; it suits the men of middle property and the working people best; and if I was going to establish a working man's party, it should be on the basis of hard money:—a hard money party, against a paper party."

In the speech which I delivered, I quoted copiously from British speakers—not the brilliant rhetoricians, but the practical, sensible, upright

business men, to whom countries are usually indebted for all beneficial legislation: the Sir Henry Parnells, the Mr. Joseph Humes, the Mr. Edward Ellices, the Sir William Pulteneys; and men of that class, legislating for the practical concerns of life, and merging the orator in the man of business.

THE SPEECH—EXTRACTS.

"Mr. Benton commenced his speech in support of the application for the leave he was about to ask, with a justification of himself for bringing forward the question of renewal at this time, when the charter had still five years to run; and bottomed his vindication chiefly on the right he possessed, and the necessity he was under to answer certain reports of one of the committee of the Senate, made in opposition to certain resolutions relative to the bank, which he had submitted to the Senate at former sessions, and which reports he had not had an opportunity of answering. He said it had been his fortune, or chance, some three years ago, to submit a resolution in relation to the undrawn balances of public money in the hands of the bank, and to accompany it with some poor remarks of unfavorable implication to the future existence of that institution. My resolution [said Mr. B.] was referred to the Committee on Finance, who made a report decidedly adverse to all my views, and eminently favorable to the bank, both as a present and future institution. This report came on the 13th of May, just fourteen days before the conclusion of a six months' session, when all was hurry and precipitation to terminate the business on hand, and when there was not the least chance to engage the attention of the Senate in the consideration of any new subject. The report was, therefore, laid upon the table unanswered, but was printed by order of the Senate, and that in extra numbers, and widely diffused over the country by means of the newspaper press. At the commencement of the next session, it being irregular to call for the consideration of the past report, I was under the necessity to begin anew, and accordingly submitted my resolution a second time, and that quite early in the session; say on the first day of January. It was my wish and request that this resolution might be discussed in the Senate, but the sentiment of the majority was different, and a second reference of it was made to the Finance Committee. A second report of the same purport with the first was a matter of course; but what did not seem to me to be a matter of course was this; that this second report should not come in until the 20th day of February, just fourteen days again before the end of the session, for it was then the short session, and the Senate as much pinched as before for time to finish the business on hand. No answer could be made to it, but the report was printed, with the former report appended to it; and thus, united like the Siamese twins, and with the apparent, but not real sanction of the Senate, they went forth together to make the tour of the Union in the columns of the newspaper press. Thus. I was a second time out of court; a second time nonsuited for want of a replication, when there was no time to file one. I had intended to begin *de novo*, and for the third time, at the opening of the ensuing session; but, happily, was anticipated and prevented by the annual message of the new President [General Jackson], which brought this question of renewing the bank charter directly before Congress. A reference of this part of the message was made, of course, to the Finance Committee: the committee, of course, again reported, and with increased ardor, in favor of the bank. Unhappily this third report, which was an amplification and reiteration of the two former, did not come in until the session was four months advanced, and when the time of the Senate had become engrossed, and its attention absorbed, by the numerous and important subjects which had accumulated upon the calendar. Printing in extra numbers, general circulation through the newspaper press, and no answer, was the catastrophe of this third reference to the Finance Committee. Thus was I nonsuited for the third time. The fourth session has now come round; the same subject is again before the same committee on the reference of the part of the President's second annual message which relates to the bank; and, doubtless, a fourth report of the same import with the three preceding ones, may be expected. But when? is the question. And, as I cannot answer that question, and the session is now two thirds advanced, and as I have no disposition to be cut off for the fourth time, I have thought proper to create an occasion to deliver my own sentiments, by asking leave to introduce a joint resolution, adverse to the tenor of all the reports, and to give my reasons against them, while supporting my application for the leave demanded; a course of proceeding which is just to myself and unjust to no one, since all are at liberty to answer me. These are my personal reasons for this step, and a part of my answer to the objection that I have begun too soon. The conduct of the bank, and its friends, constitutes the second branch of my justification. It is certainly not 'too soon' for them, judging by their conduct, to engage in the question of renewing the bank charter. In and out of Congress, they all seem to be of one accord on this point. Three reports of committees in the Senate, and one from a committee of the House of Representatives, have been made in favor of the renewal; and all these reports, instead of being laid away for future use—instead of being stuck in pigeon holes, and labelled for future attention, as things coming forth prematurely, and not wanted for present service—have, on the contrary, been universally received by the bank and its friends, in one great tempest of applause; greeted with every species of acclamation; reprinted in most of the papers, and

every effort made to give the widest diffusion, and the highest effect, to the arguments they contain. In addition to this, and at the present session, within a few days past, three thousand copies of the exposition of the affairs of the Bank have been printed by order of the two Houses, a thing never before done, and now intended to blazon the merits of the bank. [Mr. Smith, of Maryland, here expressed some dissent to this statement; but Mr. B. affirmed its correctness in substance if not to the letter, and continued.] This does not look as if the bank advocates thought it was *too soon* to discuss the question of renewing the charter; and, upon this exhibition of their sentiments, I shall rest the assertion and the proof, that they do not think so. The third branch of my justification rests upon a sense of public duty; upon a sense of what is just and advantageous to the people in general, and to the debtors and stockholders of the bank in particular. The renewal of the charter is a question which concerns the people at large; and if they are to have any hand in the decision of this question—if they are even to know what is done before it is done, it is high time that they and their representatives in Congress should understand each other's mind upon it. The charter has but five years to run; and if renewed at all, will probably be at some short period, say two or three years, before the time is out, and at any time sooner that a chance can be seen to gallop the renewal through Congress. The people, therefore, have no time to lose, if they mean to have any hand in the decision of this great question. To the bank itself, it must be advantageous, at least, if not desirable, to know its fate at once, that it may avoid (if there is to be no renewal) the trouble and expense of multiplying branches upon the eve of dissolution, and the risk and inconvenience of extending loans beyond the term of its existence. To the debtors upon mortgages, and indefinite accommodations, it must be also advantageous, if not desirable, to be notified in advance of the end of their indulgences: so that, to every interest, public and private, political and pecuniary, general and particular, full discussion, and seasonable decision, is just and proper.

"I hold myself justified, Mr. President, upon the reasons given, for proceeding in my present application; but, as example is sometimes more authoritative than reason, I will take the liberty to produce one, which is as high in point of authority as it is appropriate in point of application, and which happens to fit the case before the Senate as completely as if it had been made for it. I speak of what has lately been done in the Parliament of Great Britain. It so happens, that the charter of the Bank of England is to expire, upon its own limitation, nearly about the same time with the charter of the Bank of the United States, namely, in the year 1833; and as far back as 1824, no less than nine years before its expiration, the question of its renewal was debated. and that with great freedom, in the British House of Commons. I will read some extracts from that debate, as the fairest way of presenting the example to the Senate, and the most effectual mode of securing to myself the advantage of the sentiments expressed by British statesman.

The Extracts.

"'Sir Henry Parnell.—The House should no longer delay to turn its attention to the expediency of renewing the charter of the Bank of England. Heretofore, it had been the regular custom to renew the charter several years before the existing charter had expired. The last renewal was made when the existing charter had eleven years to run: the present charter had nine years only to continue, and he felt very anxious to prevent the making of any agreement between the government and the bank for a renewal, without a full examination of the policy of again conferring upon the Bank of England any exclusive privilege. The practice had been for government to make a secret arrangement with the bank; to submit it immediately to the proprietors of the bank for their approbation, and to call upon the House the next day to confirm it, without affording any opportunity of fair deliberation. So much information had been obtained upon the banking trade, and upon the nature of currency in the last fifteen years, that it was particularly necessary to enter upon a full investigation of the policy of renewing the bank charter before any negotiation should be entered upon between the government and the bank; and he trusted the government would not commence any such negotiation until the sense of Parliament had been taken on this important subject.'

"'Mr. Hume said it was of very great importance that his majesty's ministers should take immediate steps to free themselves from the trammels in which they had long been held by the bank. As the interest of money was now nearly on a level with what it was when the bank lent a large sum to government, he hoped the Chancellor of the Exchequer would not listen to any application for a renewal of the bank charter, but would pay off every shilling that had been borrowed from the bank. * * * * * Let the country gentlemen recollect that the bank was now acting as pawn-broker on a large scale, and lending money on estates, a system entirely contrary to the original intention of that institution. * * * * * * He hoped, before the expiration of the charter, that a regular inquiry would be made into the whole subject.'

"'Mr. Edward Ellice. It (the Bank of England) is a great monopolizing body, enjoying privileges which belonged to no other corporation, and no other class of his majesty's subjects. * * * * * * * He hoped that the exclusive charter would never again be granted; and that the conduct of the bank during the last ten or twelve years would make governm 't very

cautious how they entertained any such propositions. The right honorable Chancellor of the Exchequer [Mr. Robinson] had protested against the idea of straining any point to the prejudice of the bank; he thought, however, that the bank had very little to complain of, when their stock, after all their past profits, was at 238.'

"'The Chancellor of the Exchequer deprecated the discussion, as leading to no practical result.'

"'Mr. Alexander Baring objected to it as premature and unnecessary.'

"Sir William Pulteney (in another debate). The prejudices in favor of the present bank have proceeded from the long habit of considering it as a sort of pillar which nothing can shake. * * * * * * * The bank has been supported, and is still supported, by the fear and terror which, by means of its monopoly, it has had the power to inspire. It is well known, that there is hardly an extensive trader, a manufacturer, or a banker, either in London, or at a distance from it, to whom the bank could not do a serious injury, and could often bring on even insolvency. * * * * * I consider the power given by the monopoly to be of the nature of all other despotic power, which corrupts the despot as much as it corrupts the slave. * * * * * * It is in the nature of man, that a monopoly must necessarily be ill-conducted. * * * * * * * Whatever language the [private] bankers may feel themselves obliged to hold, yet no one can believe that they have any satisfaction in being, and continuing, under a dominion which has proved so grievous and so disastrous. * * * * * * I can never believe that the merchants and bankers of this country will prove unwilling to emancipate themselves, if they can do it without risking the resentment of the bank. No man in France was heard to complain, openly, of the Bastile while it existed. The merchants and bankers of this country have the blood of Englishmen, and will be happy to relieve themselves from a situation of perpetual terror, if they could do it consistently with a due regard to their own interest.'

"Here is authority added to reason—the force of a great example added to the weight of unanswerable reasons, in favor of early discussion; so that, I trust, I have effectually put aside that old and convenient objection to the 'time,' that most flexible and accommodating objection, which applies to all seasons, and all subjects, and is just as available for cutting off a late debate, because it is too late, as it is for stifling an early one, because it is too early.

"But, it is said that the debate will injure the stockholders; that it depreciates the value of their property, and that it is wrong to sport with the vested rights of individuals. This complaint, supposing it to come from the stockholders themselves, is both absurd and ungrateful. It is absurd, because the stockholders, at least so many of them as are not foreigners, must have known when they accepted a charter of limited duration, that the approach of its expiration would renew the debate upon the propriety of its existence; that every citizen had a right, and every public man was under an obligation, to declare his sentiments freely; that there was nothing in the charter, numerous as its peculiar privileges were, to exempt the bank from that freedom of speech and writing, which extends to all our public affairs; and that the charter was not to be renewed here, as the Bank of England charter had formerly been renewed, by a private arrangement among its friends, suddenly produced in Congress, and galloped through without the knowledge of the country. The American part of the stockholders (for I would not reply to the complaints of the foreigners) must have known all this; and known it when they accepted the charter. They accepted it, subject to this known consequence; and, therefore, the complaint about injuring their property is absurd. That it is ungrateful, must be apparent to all who will reflect upon the great privileges which these stockholders will have enjoyed for twenty years, and the large profits they have already derived from their charter. They have been dividing seven per cent. per annum, unless when prevented by their own mismanagement; and have laid up a real estate of three millions of dollars for future division; and the money which has done these handsome things, instead of being diminished or impaired in the process, is still worth largely upwards of one hundred cents to the dollar: say, one hundred and twenty-five cents. For the peculiar privileges which enabled them to make these profits, the stockholders ought to be grateful: but, like all persons who have been highly favored with undue benefits, they mistake a privilege for a right—a favor for a duty—and resent, as an attack upon their property, a refusal to prolong their undue advantages. There is no ground for these complaints, but for thanks and benedictions rather, for permitting the bank to live out its numbered days! That institution has forfeited its charter. It may be shut up at any hour. It lives from day to day by the indulgence of those whom it daily attacks; and, if any one is ignorant of this fact, let him look at the case of the Bank of the United States against Owens and others, decided in the Supreme Court, and reported in the 2d Peters.

"[Here Mr. B. read a part of this case, showing that it was a case of usury at the rate of forty-six per cent. and that Mr. Sergeant, counsel for the bank, resisted the decision of the Supreme Court, upon the ground that it would expose the charter of the bank to forfeiture; and that the decision was, nevertheless, given upon that ground; so that the bank, being convicted of taking usury, in violation of its charter, was liable to be deprived of its charter, at any time that a *scire facias* should issue against it.]

"Mr. B. resumed. Before I proceed to the consideration of the resolution, I wish to be indulged in adverting to a rule or principle of parliamentary practice, which it is only necessary to read now in order to avoid the possibility of any necessity for recurring to it hereafter. It is the rule which forbids any member to be present—which, in fact, requires him to withdraw—during the discussion of any question in which his private interest may be concerned; and authorizes the expurgation from the Journal of any vote which may have been given under the predicament of an interested motive. I demand that the Secretary of the Senate may read the rule to which I allude.

"[The Secretary read the following rule:]

"'Where the private interests of a member are concerned in a bill or question, he is to withdraw. And where such an interest has appeared, his voice has been disallowed, even after a division. In a case so contrary, not only to the laws of decency, but to the fundamental principles of the social compact, which denies to any man to be a judge in his own cause, it is for the honor of the House that this rule, of immemorial observance, should be strictly adhered to.'

"*First:* Mr. President, I object to the renewal of the charter of the Bank of the United States, because I look upon the bank as an institution too great and powerful to be tolerated in a government of free and equal laws. Its power is that of the purse; a power more potent than that of the sword; and this power it possesses to a degree and extent that will enable this bank to draw to itself too much of the political power of this Union; and too much of the individual property of the citizens of these States. The money power of the bank is both direct and indirect.

"[The Vice-President here intimated to Mr. Benton that he was out of order, and had not a right to go into the merits of the bank upon the motion which he had made. Mr. Benton begged pardon of the Vice-President, and respectfully insisted that he was in order, and had a right to proceed. He said he was proceeding upon the parliamentary rule of asking leave to bring in a joint resolution, and, in doing which, he had a right to state his reasons, which reasons constituted his speech; that the motion was debatable, and the whole Senate might answer him. The Vice-President then directed Mr. Benton to proceed.]

"Mr. B. resumed. The direct power of the bank is now prodigious, and in the event of the renewal of the charter, must speedily become boundless and uncontrollable. The bank is now authorized to own effects, lands inclusive, to the amount of fifty-five millions of dollars, and to issue notes to the amount of thirty-five millions more. This makes ninety millions; and, in addition to this vast sum, there is an opening for an unlimited increase: for there is a dispensation in the charter to issue as many more notes as Congress, by law, may permit. This opens the door to boundless emissions; for what can be more unbounded than the will and pleasure of successive Congresses? The indirect power of the bank cannot be stated in figures; but it can be shown to be immense. In the first place, it has the keeping of the public moneys, now amounting to twenty-six millions per annum (the Post Office Department included), and the gratuitous use of the undrawn balances, large enough to constitute, in themselves, the capital of a great State bank. In the next place, its promissory notes are receivable, by law, in purchase of all property owned by the United States, and in payment of all debts due them; and this may increase its power to the amount of the annual revenue, by creating a demand for its notes to that amount. In the third place, it wears the name of the United States, and has the federal government for a partner; and this name, and this partnership, identifies the credit of the bank with the credit of the Union. In the fourth place, it is armed with authority to disparage and discredit the notes of other banks, by excluding them from all payments to the United States; and this, added to all its other powers, direct and indirect, makes this institution the uncontrollable monarch of the moneyed system of the Union. To whom is all this power granted? To a company of private individuals, many of them foreigners, and the mass of them residing in a remote and narrow corner of the Union, unconnected by any sympathy with the fertile regions of the Great Valley, in which the natural power of this Union—the power of numbers—will be found to reside long before the renewed term of a second charter would expire. By whom is all this power to be exercised? By a directory of seven (it may be), governed by a majority, of four (it may be); and none of these elected by the people, or responsible to them. Where is it to be exercised? At a single city, distant a thousand miles from some of the States, receiving the produce of none of them (except one); no interest in the welfare of any of them (except one); no commerce with the people; with branches in every State; and every branch subject to the secret and absolute orders of the supreme central head: thus constituting a system of centralism, hostile to the federative principle of our Union, encroaching upon the wealth and power of the States, and organized upon a principle to give the highest effect to the greatest power. This mass of power, thus concentrated, thus ramified, and thus directed, must necessarily become, under a prolonged existence, the absolute monopolist of American money, the sole manufacturer of paper currency, and the sole authority (for authority it will be) to which the federal government, the State governments, the great cities, corporate bodies, merchants, traders, and every private citizen, must, of necessity apply, for every loan which their exigencies may demand. 'The rich ruleth the poor,

and the borrower is the servant of the lender.' Such are the words of Holy Writ; and if the authority of the Bible admitted of corroboration, the history of the world is at hand to give it. But I will not cite the history of the world, but one eminent example only, and that of a nature so high and commanding, as to include all others; and so near and recent, as to be directly applicable to our own situation. I speak of what happened in Great Britain, in the year 1795, when the Bank of England, by a brief and unceremonious letter to Mr. Pitt, such as a miser would write to a prodigal in a pinch, gave the proof of what a great moneyed power could do, and would do, to promote its own interest, in a crisis of national alarm and difficulty. I will read the letter. It is exceedingly short; for after the compliments are omitted, there are but three lines of it. It is, in fact, about as long as a sentence of execution, leaving out the prayer of the judge. It runs thus:

"'It is the wish of the Court of Directors that the Chancellor of the Exchequer would settle his arrangements of finances for the present year, in such manner as not to depend upon any further assistance from them, beyond what is already agreed for.'

"Such were the words of this memorable note, sufficiently explicit and intelligible; but to appreciate it fully, we must know what was the condition of Great Britain at that time? Remember it was the year 1795, and the beginning of that year, than which a more portentous one never opened upon the British empire. The war with the French republic had been raging for two years; Spain had just declared war against Great Britain; Ireland was bursting into rebellion; the fleet in the Nore was in open mutiny; and a cry for the reform of abuses, and the reduction of taxes, resounded through the land. It was a season of alarm and consternation, and of imminent actual danger to Great Britain; and this was the moment which the Bank selected to notify the minister that no more loans were to be expected! What was the effect of this notification? It was to paralyze the government, and to subdue the minister to the purposes of the bank. From that day forth Mr. Pitt became the minister of the bank; and, before two years were out, he had succeeded in bringing all the departments of government, King, Lords, and Commons, and the Privy Council, to his own slavish condition. He stopped the specie payments of the bank, and made its notes the lawful currency of the land. In 1797 he obtained an order in council for this purpose; in the same year an act of parliament to confirm the order for a month, and afterwards a series of acts to continue it for twenty years. This was the reign of the bank. For twenty years it was a dominant power in England; and, during that disastrous period, the public debt was increased about £400,000,000 sterling, equal nearly to two thousand millions of dollars, and that by paper loans from a bank which, according to its own declarations, had not a shilling to lend at the commencement of the period! I omit the rest. I say nothing of the general subjugation of the country banks, the rise in the price of food, the decline in wages, the increase of crimes and taxes, the multiplication of lords and beggars, and the frightful demoralization of society. I omit all this. I only seize the prominent figure in the picture, that of a government arrested in the midst of war and danger by the veto of a moneyed corporation; and only permitted to go on upon condition of assuming the odium of stopping specie payments, and sustaining the promissory notes of an insolvent bank, as the lawful currency of the land. This single feature suffices to fix the character of the times; for when the government becomes the 'servant of the lender,' the people themselves become its slaves. Cannot the Bank of the United States, if re-chartered, act in the same way? It certainly can, and just as certainly will, when time and opportunity shall serve, and interest may prompt. It is to no purpose that gentlemen may come forward, and vaunt the character of the United States Bank, and proclaim it too just and merciful to oppress the state. I must be permitted to repudiate both the pledge and the praise. The security is insufficient, and the encomium belongs to Constantinople. There were enough such in the British Parliament the year before, nay, the day before the bank stopped; yet their pledges and praises neither prevented the stoppage, nor made good the damage that ensued. There were gentlemen in our Congress to pledge themselves in 1810 for the then expiring bank, of which the one now existing is a second and deteriorated edition; and if their securityship had been accepted, and the old bank re-chartered, we should have seen this government greeted with a note, about August, 1814—about the time the British were burning this capitol—of the same tenor with the one received by the younger Pitt in the year 1795; for, it is incontestable, that that bank was owned by men who would have glorified in arresting the government, and the war itself, for want of money. Happily, the wisdom and patriotism of Jefferson, under the providence of God, prevented that infamy and ruin, by preventing the renewal of the old bank charter.

"*Secondly.* I object to the continuance of this bank, because its tendencies are dangerous and pernicious to the government and the people.

"What are the tendencies of a great moneyed power, connected with the government, and controlling its fiscal operations? Are they not dangerous to every interest, public and private —political as well as pecuniary? I say they are; and briefly enumerate the heads of each mischief.

"1. Such a bank tends to subjugate the government, as I have already shown in the history of what happened to the British minister in the year 1795.

"2. It tends to collusions between the government and the bank in the terms of the loans, as has been fully experienced in England in those frauds upon the people, and insults upon the understanding, called three per cent. loans, in which the government, for about £50 borrowed, became liable to pay £100.

"3. It tends to create public debt, by facilitating public loans, and substituting unlimited supplies of paper, for limited supplies of coin. The British debt is born of the Bank of England. That bank was chartered in 1694, and was nothing more nor less in the beginning, than an act of Parliament for the incorporation of a company of subscribers to a government loan. The loan was £1,200,000; the interest £80,000; and the expenses of management £4,000. And this is the birth and origin, the germ and nucleus of that debt, which is now £900,000,000 (the unfunded items included), which bears an interest of £30,000,000, and costs £260,000 for annual management.

"4. It tends to beget and prolong unnecessary wars, by furnishing the means of carrying them on without recurrence to the people. England is the ready example for this calamity. Her wars for the restoration of the Capet Bourbons were kept up by loans and subsidies created out of bank paper. The people of England had no interest in these wars, which cost them about £600,000,000 of debt in twenty-five years, in addition to the supplies raised within the year. The kings she put back upon the French throne were not able to sit on it. Twice she put them on; twice they tumbled off in the mud; and all that now remains of so much sacrifice of life and money is, the debt, which is eternal, the taxes, which are intolerable, the pensions and titles of some warriors, and the keeping of the Capet Bourbons, who are returned upon their hands.

"5. It tends to aggravate the inequality of fortunes; to make the rich richer, and the poor poorer; to multiply nabobs and paupers; and to deepen and widen the gulf which separates Dives from Lazarus. A great moneyed power is favorable to great capitalists; for it is the principle of money to favor money. It is unfavorable to small capitalists; for it is the principle of money to eschew the needy and unfortunate. It is injurious to the laboring classes; because they receive no favors, and have the price of the property they wish to acquire raised to the paper maximum, while wages remain at the silver minimum.

"6. It tends to make and to break fortunes, by the flux and reflux of paper. Profuse issues, and sudden contractions, perform this operation, which can be repeated, like planetary and pestilential visitations, in every cycle of so many years; at every periodical return, transferring millions from the actual possessors of property to the Neptunes who preside over the flux and reflux of paper. The last operation of this kind performed by the Bank of England, about five years ago, was described by Mr. Alexander Baring, in the House of Commons, in terms which are entitled to the knowledge and remembrance of American citizens. I will read his description, which is brief, but impressive. After describing the profuse issues of 1823–24, he painted the reaction in the following terms:

"'They, therefore, all at once, gave a sudden jerk to the horse on whose neck they had before suffered the reins to hang loose. They contracted their issues to a considerable extent. The change was at once felt throughout the country. A few days before that, no one knew what to do with his money; now, no one knew where to get it. * * * * The London bankers found it necessary to follow the same course towards their country correspondents, and these again towards their customers, and each individual towards his debtor. The consequence was obvious in the late panic. Every one, desirous to obtain what was due to him, ran to his banker, or to any other on whom he had a claim; and even those who had no immediate use for their money, took it back, and let it lie unemployed in their pockets, thinking it unsafe in others' hands. The effect of this alarm was, that houses which were weak went immediately. Then went second rate houses; and, lastly, houses which were solvent went, because their securities were unavailable. The daily calls to which each individual was subject put it out of his power to assist his neighbor. Men were known to seek for assistance, and that, too, without finding it, who, on examination of their affairs, were proved to be worth 200,000 pounds, —men, too, who held themselves so secure, that, if asked six months before whether they could contemplate such an event, they would have said it would be impossible, unless the sky should fall, or some other event equally improbable should occur.'

"This is what was done in England five years ago, it is what may be done here in every five years to come, if the bank charter is renewed. Sole dispenser of money, it cannot omit the oldest and most obvious means of amassing wealth by the flux and reflux of paper. The game will be in its own hands, and the only answer to be given is that to which I have alluded: 'The Sultan is too just and merciful to abuse his power.'

"*Thirdly.* I object to the renewal of the charter, on account of the exclusive privileges, and anti-republican monopoly, which it gives to the stockholders. It gives, and that by an act of Congress, to a company of individuals, the exclusive legal privileges:

"1. To carry on the trade of banking upon the revenue and credit, and in the name, of the United States of America.

"2. To pay the revenues of the Union in their own promissory notes.

"3. To hold the moneys of the United States

in deposit, without making compensation for the undrawn balances.

"4. To discredit and disparage the notes of other banks, by excluding them from the collection of the federal revenue.

"5. To hold real estate, receive rents, and retain a body of tenantry.

"6. To deal in pawns, merchandise, and bills of exchange.

"7. To establish branches in the States without their consent.

"8. To be exempt from liability on the failure of the bank.

'9. To have the United States for a partner.

"10. To have foreigners for partners.

"11. To be exempt from the regular administration of justice for the violations of their charter.

"12. To have all these exclusive privileges secured to them as a monopoly, in a pledge of the public faith not to grant the like privileges to any other company.

"These are the privileges, and this the monopoly of the bank. Now, let us examine them, and ascertain their effect and bearing. Let us contemplate the magnitude of the power which they create; and ascertain the compatibility of this power with the safety of this republican government, and the rights and interests of its free and equal constituents.

"1. The name, the credit, and the revenues of the United States are given up to the use of this company, and constitute in themselves an immense capital to bank upon. The name of the United States, like that of the King, is a tower of strength; and this strong tower is now an outwork to defend the citadel of a moneyed corporation. The credit of the Union is incalculable; and, of this credit, as going with the name, and being in partnership with the United States, the same corporation now has possession. The revenues of the Union are twenty-six millions of dollars, including the post-office; and all this is so much capital in the hands of the bank, because the revenue is received by it, and is payable in its promissory notes.

"2. To pay the revenues of the United States in their own notes, until Congress, by law, shall otherwise direct. This is a part of the charter, incredible and extraordinary as it may appear. The promissory notes of the bank are to be received in payment of every thing the United States may have to sell—in discharge of every debt due to her, until Congress, by law, shall otherwise direct; so that, if this bank, like its prototype in England, should stop payment, its promissory notes would still be receivable at every custom-house, land-office, post-office, and by every collector of public moneys, throughout the Union, until Congress shall meet, pass a repealing law, and promulgate the repeal. Other banks depend upon their credit for the receivability of their notes; but this favored institution has law on its side, and a chartered right to compel the reception of its paper by the federal government. The immediate consequence of this extraordinary privilege is, that the United States becomes virtually bound to stand security for the bank, as much so as if she had signed a bond to that effect; and must stand forward to sustain the institution in all emergencies, in order to save her own revenue. This is what has already happened, some ten years ago, in the early progress of the bank, and when the immense aid given it by the federal government enabled it to survive the crisis of its own overwhelming mismanagement.

3. To hold the moneys of the United States in deposit, without making compensation for the use of the undrawn balances.—This is a right which I deny; but, as the bank claims it, and, what is more material, enjoys it; and as the people of the United States have suffered to a vast extent in consequence of this claim and enjoyment, I shall not hesitate to set it down to the account of the bank. Let us then examine the value of this privilege, and its effect upon the interest of the community; and, in the first place, let us have a full and accurate view of the amount of these undrawn balances, from the establishment of the bank to the present day. Here it is! Look! Read!

"See, Mr. President, what masses of money, and always on hand. The paper is covered all over with millions: and yet, for all these vast sums, no interest is allowed; no compensation is made to the United States. The Bank of England, for the undrawn balances of the public money, has made an equitable compensation to the British government; namely, a permanent loan of half a million sterling, and a temporary loan of three millions for twenty years, without interest. Yet, when I moved for a like compensation to the Untied States, the proposition was utterly rejected by the Finance Committee, and treated as an attempt to violate the charter of the bank. At the same time it is incontestable, that the United States have been borrowing these undrawn balances from the bank, and paying an interest upon their own money. I think we can identify one of these loans. Let us try. In May, 1824, Congress authorized a loan of five millions of dollars to pay the awards under the treaty with Spain, commonly called the Florida treaty. The bank of the United States took that loan, and paid the money for the United States in January and March, 1825. In looking over the statement of undrawn balances, it will be seen that they amounted to near four millions at the end of the first, and six millions at the end of the second quarter of that year. The inference is irresistible, and I leave every senator to make it; only adding, that we have paid $1,469,375 in interest upon that loan, either to the bank or its transferrees. This is a strong case; but I have a stronger one. It is known to every body, that the United States subscribed seven millions to the capital stock of the bank, for which she gave her stock note, bearing an interest of five per cent. per annum. I have a statement from

the Register of the Treasury, from which it appears that, up to the 30th day of June last, the United States had paid four millions seven hundred and twenty-five thousand dollars in interest upon that note; when it is proved by the statement of balances exhibited, that the United States, for the whole period in which that interest was accruing, had the half, or the whole, and once the double, of these seven millions in the hands of the bank. This is a stronger case than that of the five million loan, but it is not the strongest. The strongest case is this: in the year 1817, when the bank went into operation, the United States owed, among other debts, a sum of about fourteen millions and three-quarters, bearing an interest of three per cent. In the same year, the commissioners of the sinking fund were authorized by an act of Congress to purchase that stock at sixty-five per cent., which was then its market price. Under this authority, the amount of about one million and a half was purchased; the remainder, amounting to about thirteen millions and a quarter, has continued unpurchased to this day; and, after costing the United States about six millions in interest since 1817, the stock has risen about four millions in value; that is to say, from sixty-five to nearly ninety-five. Now, here is a clear loss of ten millions of dollars to the United States. In 1817 she could have paid off thirteen millions and a quarter of debt, with eight millions and a half of dollars: now, after paying six millions of interest, it would require twelve millions and a half to pay off the same debt. By referring to the statement of undrawn balances, it will be seen that the United States had, during the whole year 1817, an average sum of above ten millions of dollars in the hands of the bank, being a million and a half more than enough to have bought in the whole of the three per cent. stock. The question, therefore, naturally comes up, why was it not applied to the redemption of these thirteen millions and a quarter, according to the authority contained in the act of Congress of that year? Certainly the bank needed the money; for it was just getting into operation, and was as hard run to escape bankruptcy about that time, as any bank that ever was saved from the brink of destruction. This is the largest injury which we have sustained, on account of accommodating the bank with the gratuitous use of these vast deposits. But, to show myself impartial, I will now state the smallest case of injury that has come within my knowledge: it is the case of the *bonus* of fifteen hundred thousand dollars which the bank was to pay to the United States, in three equal instalments, for the purchase of its charter. Nominally, this *bonus* has been paid, but out of what moneys? Certainly out of our own; for the statement shows our money was there, and further, shows that it is still there; for, on the 30th day of June last, which is the latest return, there was still $2,550,664 in the hands of the bank, which is above $750,000 more than the amount of the *bonus*.

"One word more upon the subject of these balances. It is now two years since I made an effort to repeal the 4th section of the Sinking Fund act of 1817; a section which was intended to limit the amount of surplus money which might be kept in the treasury, to two millions of dollars; but, by the power of construction, was made to authorize the keeping of two millions in addition to the surplus. I wished to repeal this section, which had thus been construed into the reverse of its intention, and to revive the first section of the Sinking Fund act of 1790, which directed the whole of the surplus on hand to be applied, at the end of each year, to the payment of the public debt. My argument was this: that there was no necessity to keep any surplus; that the revenue, coming in as fast as it went out, was like a perennial fountain, which you might drain to the last drop, and not exhaust; for the place of the last drop would be supplied the instant it was out. And I supported this reasoning by a reference to the annual treasury reports, which always exhibit a surplus of four or five millions; and which were equally in the treasury the whole year round, as on the last day of every year. This was the argument, which in fact availed nothing; but now I have mathematical proof of the truth of my position. Look at this statement of balances; look for the year 1819, and you will find but three hundred thousand dollars on hand for that year; look still lower for 1821, and you will find this balance but one hundred and eighty-two thousand dollars. And what was the consequence? Did the Government stop? Did the wheels of the State chariot cease to turn round in those years for want of treasury oil? Not at all. Every thing went on as well as before; the operations of the treasury were as perfect and regular in those two years of insignificant balances, as in 1817 and 1818, when five and ten millions were on hand. This is proof; this is demonstration; it is the indubitable evidence of the senses which concludes argument, and dispels uncertainty; and, as my proposal for the repeal of the 4th Section of the Sinking Fund act of 1817 was enacted into a law at the last session of Congress, upon the recommendation of the Secretary of the Treasury, a vigilant and exemplary officer, I trust that the repeal will be acted upon, and that the bank platter will be wiped as clean of federal money in 1831, as it was in 1821. Such clean-taking from that dish will allow two or three millions more to go to the reduction of the public debt; and there can be no danger in taking the last dollar, as reason and experience both prove. But, to quiet every apprehension on this point, to silence the last suggestion of a possibility of any temporary deficit, I recur to a provision contained in two different clauses in the bank charter, copied from an amendment in the charter of the Bank of England, and expressly made, at

the instance of the ministry, to meet the contingency of a temporary deficiency in the annual revenue. The English provision is this: that the government may borrow of the bank half a million sterling, at any time, without a special act of parliament to authorize it. The provision in our charter is the same, with the single substitution of dollars for pounds. It is, in words and intention, a standing authority to borrow that limited sum, for the obvious purpose of preventing a constant keeping of a sum of money in hand as a reserve, to meet contingencies which hardly ever occur. This contingent authority to effect a small loan has often been used in England—in the United States, never; possibly, because there has been no occasion for it; probably, because the clause was copied mechanically from the English charter, and without the perception of its practical bearing. Be this as it may, it is certainly a wise and prudent provision, such as all governments should, at all times, be clothed with.

"If any senator thinks that I have exaggerated the injury suffered by the United States, on account of the uncompensated masses of public money in the hands of the bank, I am now going to convince him that he is wrong. I am going to prove to him that I have understated the case; that I have purposely kept back a large part of it; and that justice requires a further development. The fact is, that there are two different deposits of public money in the bank; one in the name of the Treasurer of the United States, the other in the name of disbursing officers. The annual average of the former has been about three and a half millions of dollars, and of this I have said not a word. But the essential character of both deposits is the same; they are both the property of the United States; both permanent; both available as so much capital to the bank; and both uncompensated.

"I have not ascertained the average of these deposits since 1817, but presume it may equal the amount of that *bonus* of one million five hundred thousand dollars for which we sold the charter, and which the Finance Committee of the Senate compliments the bank for paying in three, instead of seventeen, annual instalments; and shows how much interest they lost by doing so. Certainly, this was a disadvantage to the bank.

"Mr. President, it does seem to me that there is something ominous to the bank in this contest for compensation on the undrawn balances. It is the very way in which the struggle began in the British Parliament which has ended in the overthrow of the Bank of England. It is the way in which the struggle is beginning here. My resolutions of two and three years ago are the causes of the speech which you now hear; and, as I have reason to believe, some others more worthy of your hearing, which will come at the proper time. The question of compensation for balances is now mixing itself up here, as in England, with the question of renewing the charter; and the two, acting together, will fall with combined weight upon the public mind, and certainly eventuate here as they did there.

"4. To discredit and disparage the notes of al other banks, by excluding them from the collection of the federal revenue. This results from the collection—no, not the collection, but the receipt of the revenue having been communicated to the bank, and along with it the virtual execution of the joint resolution of 1816, to regulate the collection of the federal revenue. The execution of that resolution was intended to be vested in the Secretary of the Treasury—a disinterested arbiter between rival banks; but it may be considered as virtually devolved upon the Bank of the United States, and powerfully increases the capacity of that institution to destroy, or subjugate, all other banks. This power to disparage the notes of all other banks, is a power to injure them; and, added to all the other privileges of the Bank of the United States, is a power to destroy them! If any one doubts this assertion, let him read the answers of the president of the bank to the questions put to him by the chairman of the Finance Committee. These answers are appended to the committee's report of the last session in favor of the bank, and expressly declare the capacity of the federal bank to destroy the State banks. The worthy chairman [Mr. Smith, of Md.] puts this question; 'Has the bank at any time oppressed any of the State banks.' The president [Mr. Biddle], answers, as the whole world would answer to a question of oppression, that it never had; and this response was as much as the interrogatory required. But it did not content the president of the bank; he chose to go further, and to do honor to the institution over which he presided, by showing that it was as just and generous as it was rich and powerful. He, therefore, adds the following words, for which, as a seeker after evidence, to show the alarming and dangerous character of the bank, I return him my unfeigned thanks: 'There are very few banks which might not have been destroyed by an exertion of the power of the bank.'

"This is enough! proof enough! not for me alone, but for all who are unwilling to see a moneyed domination set up—a moneyed oligarchy established in this land, and the entire Union subjected to its sovereign will. The power to destroy all other banks is admitted and declared; the inclination to do so is known to all rational beings to reside with the power! Policy may restrain the destroying faculties for the present; but they exist; and will come forth when interest prompts and policy permits. They have been exercised; and the general prostration of the Southern and Western banks attest the fact. They will be exercised (the charter being renewed), and the remaining State banks will be swept with the besom of destruction. Not that all will have their signs knocked down, and their doors closed up. Far worse than that to many of them. Subjugation, in prefer-

ence to destruction, will be the fate of many. Every planet must have its satellites; every tyranny must have its instruments; every knight is followed by his squire; even the king of beasts, the royal quadruped, whose roar subdues the forest, must have a small, subservient animal to spring his prey. Just so of this imperial bank, when installed anew in its formidable and lasting power. The State banks, spared by the sword, will be passed under the yoke. They will become subordinate parts in the great machine. Their place in the scale of subordination will be one degree below the rank of the legitimate branches; their business, to perform the work which it would be too disreputable for the legitimate branches to perform. This will be the fate of the State banks which are allowed to keep up their signs, and to set open their doors; and thus the entire moneyed power of the Union would fall into the hands of one single institution, whose inexorable and invisible mandates, emanating from a centre, would pervade the Union, giving or withholding money according to its own sovereign will and absolute pleasure. To a favored State, to an individual, or a class of individuals, favored by the central power, the golden stream of Pactolus would flow direct. To all such the munificent mandates of the High Directory would come, as the fabled god made his terrestrial visit of love and desire, enveloped in a shower of gold. But to others—to those not favored—and to those hated—the mandates of this same directory would be as 'the planetary plague which hangs its poison in the sick air;' death to them! death to all who minister to their wants! What a state of things! What a condition for a confederacy of States! What grounds for alarm and terrible apprehension, when in a confederacy of such vast extent, so many independent States, so many rival commercial cities, so much sectional jealousy, such violent political parties, such fierce contests for power, there should be but one moneyed tribunal, before which all the rival and contending elements must appear! but one single dispenser of money, to which every citizen, every trader, every merchant, every manufacturer, every planter, every corporation, every city, every State, and the federal government itself, must apply, in every emergency, for the most indispensable loan! and this, in the face of the fact, that, in every contest for human rights, the great moneyed institutions of the world have uniformly been found on the side of kings and nobles, against the lives and liberties of the people.

"5. To hold real estate, receive rents, and retain a body of tenantry. This privilege is hostile to the nature of our republican government, and inconsistent with the nature and design of a banking institution. Republics want freeholders, not landlords and tenants; and, except the corporators in this bank, and in the British East India Company, there is not an incorporated body of landlords in any country upon the face of the earth whose laws emanate from a legislative body. Banks are instituted to promote trade and industry, and to aid the government and its citizens with loans of money. The whole argument in favor of banking—every argument in favor of this bank—rests upon that idea. No one, when this charter was granted, presumed to speak in favor of incorporating a society of landlords, especially foreign landlords, to buy lands, build houses, rent tenements, and retain tenantry. Loans of money was the object in view, and the purchase of real estate is incompatible with that object. Instead of remaining bankers, the corporators may turn land speculators: instead of having money to lend, they may turn you out tenants to vote. To an application for a loan, they may answer, and answer truly, that they have no money on hand; and the reason may be, that they have laid it out in land. This seems to be the case at present. A committee of the legislature of Pennsylvania has just applied for a loan; the president of the bank, nothing loth to make a loan to that great State, for twenty years longer than the charter has to exist, expresses his regret that he cannot lend but a limited and inadequate sum. The funds of the institution, he says, will not permit it to advance more than eight millions of dollars. And why? because it has invested three millions in real estate! To this power to hold real estate, is superadded the means to acquire it. The bank is now the greatest moneyed power in the Union; in the event of the renewal of its charter, it will soon be the sole one. Sole dispenser of money, it will soon be the chief owner of property. To unlimited means of acquisition, would be united perpetuity of tenure; for a corporation never dies, and is free from the operation of the laws which govern the descent and distribution of real estate in the hands of individuals. The limitations in the charter are vain and illusory. They insult the understanding, and mock the credulity of foolish believers. The bank is first limited to such acquisitions of real estate as are necessary to its own accommodation; then comes a proviso to undo the limitation, so far as it concerns purchases upon its own mortgages and executions! This is the limitation upon the capacity of such an institution to acquire real estate. As if it had any thing to do but to make loans upon mortgages, and push executions upon judgments! Having all the money, it would be the sole lender; mortgages being the road to loans, all borrowers must travel that road. When birds enough are in the net, the fowler draws his string, and the heads are wrung off. So when mortgages enough are taken, the loans are called in; discounts cease; curtailments are made; failures to pay ensue; writs issue; judgments and executions follow; all the mortgaged premises are for sale at once; and the attorney of the bank appears at the elbow of the marshal, sole bidder and sole purchaser.

"What is the legal effect of this vast capacity to acquire, and this legal power to retain, real

estate? Is it not the creation of a new species of mortmain? And of a kind more odious and dangerous than that mortmain of the church which it baffled the English Parliament so many ages to abolish. The mortmain of the church was a power in an ecclesiastical corporation to hold real estate, independent of the laws of distribution and descent: the mortmain of the bank is a power in a lay corporation to do the same thing. The evil of the two tenures is identical; the difference between the two corporations is no more than the difference between parsons and money-changers; the capacity to do mischief incomparably the greatest on the part of the lay corporators. The church could only operate upon the few who were thinking of the other world; the bank, upon all who are immersed in the business or the pleasures of this. The means of the church were nothing but prayers; the means of the bank is money! The church received what it could beg from dying sinners; the bank may extort what it pleases from the whole living generation of the just and unjust. Such is the parallel between the mortmain of the two corporations. They both end in monopoly of estates and perpetuity of succession; and the bank is the greatest monopolizer of the two. Monopolies and perpetual succession are the bane of republics. Our ancestors took care to provide against them, by abolishing entails and primogeniture. Even the glebes of the church, lean and few as they were in most of the States, fell under the republican principle of limited tenures. All the States abolished the anti-republican tenures; but Congress re-establishes them, and in a manner more dangerous and offensive than before the Revolution. They are now given, not generally, but to few; not to natives only, but to foreigners also; for foreigners are large owners of this bank. And thus, the principles of the Revolution sink before the privileges of an incorporated company. The laws of the States fall before the mandates of a central directory in Philadelphia. Foreigners become the landlords of free-born Americans; and the young and flourishing towns of the United States are verging to the fate of the family boroughs which belong to the great aristocracy of England.

"Let no one say the bank will not avail itself of its capacity to amass real estate. The fact is, it has already done so. I know towns, yea, cities, and could name them, if it might not seem invidious from this elevated theatre to make a public reference to their misfortunes, in which this bank already appears as a dominant and engrossing proprietor. I have been, in places where the answers to inquiries for the owners of the most valuable tenements, would remind you of the answers given by the Egyptians to similar questions from the French officers, on their march to Cairo. You recollect, no doubt, sir, the dialogue to which I allude: 'Who owns that palace?' 'The Mameluke;' 'Who this country house?' 'The Mameluke;' 'These gardens?' 'The Mameluke;' "That field covered with rice?' 'The Mameluke.'—And thus have I been answered, in the towns and cities referred to, with the single exception of the name of the Bank of the United States substituted for that of the military scourge of Egypt. If this is done under the first charter, what may not be expected under the second? If this is done while the bank is on its best behavior, what may she not do when freed from all restraint and delivered up to the boundless cupidity and remorseless exactions of a moneyed corporation?

"6. To deal in pawns, merchandise, and bills of exchange. I hope the Senate will not require me to read dry passages from the charter to prove what I say. I know I speak a thing nearly incredible when I allege that this bank, in addition to all its other attributes, is an incorporated company of pawnbrokers! The allegation staggers belief, but a reference to the charter will dispel incredulity. The charter, in the first part, forbids a traffic in merchandise; in the after part, permits it. For truly this instrument seems to have been framed upon the principles of contraries; one principle making limitations, and the other following after with provisos to undo them. Thus is it with lands, as I have just shown; thus is it with merchandise, as I now show. The bank is forbidden to deal in merchandise—proviso, unless in the case of goods pledged for money lent, and not redeemed to the day; and, proviso, again, unless for goods which shall be the proceeds of its lands. With the help of these two provisos, it is clear that the limitation is undone; it is clear that the bank is at liberty to act the pawnbroker and merchant, to any extent that it pleases. It may say to all the merchants who want loans, Pledge your stores, gentlemen! They must do it, or do worse; and, if any accident prevents redemption on the day, the pawn is forfeited, and the bank takes possession. On the other hand, it may lay out its rents for goods; it may sell its real estate, now worth three millions of dollars, for goods. Thus the bank is an incorporated company of pawnbrokers and merchants, as well as an incorporation of landlords and land-speculators; and this derogatory privilege, like the others, is copied from the old Bank of England charter of 1694. Bills of exchange are also subjected to the traffic of this bank. It is a traffic unconnected with the trade of banking, dangerous for a great bank to hold, and now operating most injuriously in the South and West. It is the process which drains these quarters of the Union of their gold and silver, and stifles the growth of a fair commerce in the products of the country. The merchants, to make remittances, buy bills of exchange from the branch banks, instead of buying produce from the farmers. The bills are paid for in gold and silver; and, eventually, the gold and silver are sent to the mother bank, or to the branches in the Eastern cities, either to meet these bills, or to replenish their coffers, and to furnish vast loans to favorite States or individuals. The bills sell cheap, say

a fraction of one per cent.; they are, therefore, a good remittance to the merchant. To the bank the operation is doubly good; for even the half of one per cent. on bills of exchange is a great profit to the institution which monopolizes that business, while the collection and delivery to the branches of all the hard money in the country is a still more considerable advantage. Under this system, the best of the Western banks—I do not speak of those which had no foundations, and sunk under the weight of neighborhood opinion, but those which deserved favor and confidence—sunk ten years ago. Under this system, the entire West is now undergoing a silent, general, and invisible drain of its hard money; and, if not quickly arrested, these States will soon be, so far as the precious metals are concerned, no more than the empty skin of an immolated victim.

"7. To establish branches in the different States without their consent, and in defiance of their resistance. No one can deny the degrading and injurious tendency of this privilege. It derogates from the sovereignty of a State; tramples upon her laws; injures her revenue and commerce; lays open her government to the attacks of centralism; impairs the property of her citizens; and fastens a vampire on her bosom to suck out her gold and silver. 1. It derogates from her sovereignty, because the central institution may impose its intrusive branches upon the State without her consent, and in defiance of her resistance. This has already been done. The State of Alabama, but four years ago, by a resolve of her legislature, remonstrated against the intrusion of a branch upon her. She protested against the favor. Was the will of the State respected? On the contrary, was not a branch instantaneously forced upon her, as if, by the suddenness of the action, to make a striking and conspicuous display of the omnipotence of the bank, and the nullity of the State? 2. It tramples upon her laws; because, according to the decision of the Supreme Court, the bank and all its branches are wholly independent of State legislation; and it tramples on them again, because it authorizes foreigners to hold lands and tenements in every State, contrary to the laws of many of them; and because it admits of the *mortmain* tenure, which is condemned by all the republican States in the Union. 3. It injures her revenue, because the bank stock, under the decision of the Supreme Court, is not liable to taxation. And thus, foreigners, and non-resident Americans, who monopolize the money of the State, who hold its best lands and town lots, who meddle in its elections, and suck out its gold and silver, and perform no military duty, are exempted from paying taxes, in proportion to their wealth, for the support of the State whose laws they trample upon, and whose benefits they usurp. 4. It subjects the State to the dangerous manœuvres and intrigues of centralism, by means of the tenants, debtors, bank officers, and bank money, which the central directory retain in the State, and may embody and direct against it in its elections, and in its legislative and judicial proceedings. 5. It tends to impair the property of the citizens, and, in some instances, that of the States, by destroying the State banks in which they have invested their money. 6. It is injurious to the commerce of the States (I speak of the Western States), by substituting a trade in bills of exchange, for a trade in the products of the country. 7. It fastens a vampire on the bosom of the State, to suck away its gold and silver, and to co-operate with the course of trade, of federal legislation, and of exchange, in draining the South and West of all their hard money. The Southern States, with their thirty millions of annual exports in cotton, rice, and tobacco, and the Western States, with their twelve millions of provisions and tobacco exported from New Orleans, and five millions consumed in the South, and on the lower Mississippi,—that is to say, with three fifths of the marketable productions of the Union, are not able to sustain thirty specie paying banks; while the minority of the States north of the Potomac, without any of the great staples for export, have above four hundred of such banks. These States, without rice, without cotton, without tobacco, without sugar, and with less flour and provisions, to export, are saturated with gold and silver; while the Southern and Western States, with all the real sources of wealth, are in a state of the utmost destitution. For this calamitous reversal of the natural order of things, the Bank of the United States stands forth pre-eminently culpable. Yes, it is pre-eminently culpable! and a statement in the 'National Intelligencer' of this morning (a paper which would overstate no fact to the prejudice of the bank), cites and proclaims the fact which proves this culpability. It dwells, and exults, on the quantity of gold and silver in the vaults of the United States Bank. It declares that institution to be 'overburdened' with gold and silver; and well may it be so overburdened, since it has lifted the load entirely from the South and West. It calls these metals 'a drug' in the hands of the bank; that is to say, an article for which no purchaser can be found. Let this 'drug,' like the treasures of the dethroned Dey of Algiers, be released from the dominion of its keeper; let a part go back to the South and West, and the bank will no longer complain of repletion, nor they of depletion.

"8. Exemption of the stockholders from individual liability on the failure of the bank. This privilege derogates from the common law, is contrary to the principle of partnerships, and injurious to the rights of the community. It is a peculiar privilege granted by law to these corporators, and exempting them from liability, except in their corporate capacity, and to the amount of the assets of the corporation. Unhappily these assets are never *assez*, that is to say, enough.

when occasion comes for recurring to them. When a bank fails, its assets are always less than its debts; so that responsibility fails the instant that liability accrues. Let no one say that the bank of the United States is too great to fail. One greater than it, and its prototype, has failed, and that in our own day, and for twenty years at a time: the Bank of England failed in 1797, and the Bank of the United States was on the point of failing in 1819. The same cause, namely, stockjobbing and overtrading, carried both to the brink of destruction; the same means saved both, namely, the name, the credit, and the helping hand of the governments which protected them. Yes, the Bank of the United States may fail; and its stockholders live in splendor upon the princely estates acquired with its notes, while the industrious classes, who hold these notes, will be unable to receive a shilling for them. This is unjust. It is a vice in the charter. The true principle in banking requires each stockholder to be liable to the amount of his shares; and subjects him to the summary action of every holder on the failure of the institution, till he has paid up the amount of his subscription. This is the true principle. It has prevailed in Scotland for the last century, and no such thing as a broken bank has been known there in all that time.

"9. To have the United States for a partner. Sir, there is one consequence, one result of all partnerships between a government and individuals, which should of itself, and in a mere mercantile point of view, condemn this association on the part of the federal government. It is the principle which puts the strong partner forward to bear the burden whenever the concern is in danger. The weaker members flock to the strong partner at the approach of the storm, and the necessity of venturing more to save what he has already staked, leaves him no alternative. He becomes the Atlas of the firm, and bears all upon his own shoulders. This is the principle: what is the fact? Why, that the United States has already been compelled to sustain the federal bank; to prop it with her revenues and its credit in the trials and crisis of its early administration. I pass over other instances of the damage suffered by the United States on account of this partnership; the immense standing deposits for which we receive no compensation; the loan of five millions of our own money, for which we have paid a million and a half in interest; the five per cent. stock note, on which we have paid our partners four million seven hundred and twenty-five thousand dollars in interest; the loss of ten millions on the three per cent. stock, and the ridiculous catastrophe of the miserable *bonus*, which has been paid to us with a fraction of our own money: I pass over all this, and come to the point of a direct loss, as a partner, in the dividends upon the stock itself. Upon this naked point of profit and loss, to be decided by a rule in arithmetic, we have sustained a direct and heavy loss. The stock held by the United States, as every body knows, was subscribed, not paid. It was a stock note, deposited for seven millions of dollars, bearing an interest of five per cent. The inducement to this subscription was the seductive conception that, by paying five per cent. on its note, the United States would clear four or five per cent. in getting a dividend of eight or ten. This was the inducement; now for the realization of this fine conception. Let us see it. Here it is; an official return from the Register of the Treasury of interest paid, and of dividends received. The account stands thus:

Interest paid by the United States,	$4,725,000
Dividends received by the United States,	4,629,426
Loss to the United States,	$95,574

"Disadvantageous as this partnership must be to the United States in a moneyed point of view, there is a far more grave and serious aspect under which to view it. It is the political aspect, resulting from the union between the bank and the government. This union has been tried in England, and has been found there to be just as disastrous a conjunction as the union between church and state. It is the conjunction of the lender and the borrower, and Holy Writ has told us which of these categories will be master of the other. But suppose they agree to drop rivalry, and unite their resources. Suppose they combine, and make a push for political power: how great is the mischief which they may not accomplish! But, on this head, I wish to use the language of one of the brightest patriots of Great Britain; one who has shown himself, in these modern days, to be the worthy successor of those old iron barons whose patriotism commanded the unpurchasable eulogium of the elder Pitt. I speak of Sir William Pulteney, and his speech against the Bank of England, in 1797.

"THE SPEECH:—EXTRACT.

"'I have said enough to show that government has been rendered dependent on the bank, and more particularly so in the time of war; and though the bank has not yet fallen into the hands of ambitious men, yet it is evident that it might, in such hands, assume a power sufficient to control and overawe, not only the ministers, but king, lords, and commons. * * * * * * * As the bank has thus become dangerous to government, it might, on the other hand, by uniting with an ambitious minister, become the means of establishing a fourth estate, sufficient to involve this nation in irretrievable slavery, and ought, therefore, to be dreaded as much as a certain East India bill was justly dreaded, at a period not very remote. I will not say that the present minister (the younger Pitt), by endeavoring, at this crisis, to take the Bank of England under his protection, can have any view to make use, hereafter, of that engine to perpetuate his own power, and to enable him to

domineer over our constitution: if that could be supposed, it would only show that men can entertain a very different train of ideas, when endeavoring to overset a rival, from what occurs to them when intending to support and fix themselves. My object is to secure the country against all risk either from the bank as opposed to government, or as the engine of ambitious men.'

"And this is my object also. I wish to secure the Union from all chance of harm from this bank. I wish to provide against its friendship, as well as its enmity—against all danger from its hug, as well as from its blow. I wish to provide against all risk, and every hazard; for, if this risk and hazard were too great to be encountered by King, Lords, and Commons, in Great Britain, they must certainly be too great to be encountered by the people of the United States, who are but commons alone.

"10. To have foreigners for partners. This, Mr. President, will be a strange story to be told in the West. The downright and upright people of that unsophisticated region believe that words mean what they signify, and that 'the Bank of the United States' is the Bank of the United States. How great then must be their astonishment to learn that this belief is a false conception, and that this bank (its whole name to the contrary notwithstanding) is just as much the bank of foreigners as it is of the federal government. Here I would like to have the proof—a list of the names and nations, to establish this almost incredible fact. But I have no access except to public documents, and from one of these I learn as much as will answer the present pinch. It is the report of the Committee of Ways and Means, in the House of Representatives, for the last session of Congress. That report admits that foreigners own seven millions of the stock of this bank; and every body knows that the federal government owns seven millions also.

"Thus it is proved that foreigners are as deeply interested in this bank as the United States itself. In the event of a renewal of the charter they will be much more deeply interested than at present; for a prospect of a rise in the stock to two hundred and fifty, and the unsettled state of things in Europe, will induce them to make great investments. It is to no purpose to say that the foreign stockholders cannot be voters or directors. The answer to that suggestion is this: the foreigners have the money; they pay down the cash, and want no accommodations; they are lenders, not borrowers; and in a great moneyed institution, such stockholders must have the greatest influence. The name of this bank is a deception upon the public. It is not the bank of the federal government, as its name would import, nor of the States which compose this Union; but chiefly of private individuals, foreigners as well as natives, denizens, and naturalized subjects. They own twenty-eight millions of the stock, the federal government but seven millions, and these seven are precisely balanced by the stock of the aliens. The federal government and the aliens are equal, owning one fifth each; and there would be as much truth in calling it the English Bank as the Bank of the United States. Now mark a few of the privileges which this charter gives to these foreigners. To be landholders, in defiance of the State laws, which forbid aliens to hold land; to be landlords by incorporation, and to hold American citizens for tenants; to hold lands in mortmain; to be pawnbrokers and merchants by incorporation; to pay the revenue of the United States in their own notes; in short, to do every thing which I have endeavored to point out in the long and hideous list of exclusive privileges granted to this bank. If I have shown it to be dangerous for the United States to be in partnership with its own citizens, how much stronger is not the argument against a partnership with foreigners? What a prospect for loans when at war with a foreign power, and the subjects of that power large owners of the bank here, from which alone, or from banks liable to be destroyed by it, we can obtain money to carry on the war! What a state of things, if, in the division of political parties, one of these parties and the foreigners, coalescing, should have the exclusive control of all the money in the Union, and, in addition to the money, should have bodies of debtors, tenants, and bank officers stationed in all the States, with a supreme and irresponsible system of centralism to direct the whole! Dangers from such contingencies are too great and obvious to be insisted upon. They strike the common sense of all mankind, and were powerful considerations with the old whig republicans for the non-renewal of the charter of 1791. Mr. Jefferson and the whig republicans staked their political existence on the non-renewal of that charter. They succeeded; and, by succeeding, prevented the country from being laid at the mercy of British and ultra-federalists for funds to carry on the last war. It is said the United States lost forty millions by using depreciated currency during the last war. That, probably, is a mistake of one half. But be it so! For what are forty millions compared to the loss of the war itself—compared to the ruin and infamy of having the government arrested for want of money—stopped and paralyzed by the reception of such a note as the younger Pitt received from the Bank of England in 1795?

"11. Exemption from due course of law for violations of its charter.—This is a privilege which affects the administration of justice, and stands without example in the annals of republican legislation. In the case of all other delinquents, whether persons or corporations, the laws take their course against those who offend them. It is the right of every citizen to set the laws in motion against every offender; and it is the constitution of the law, when set in motion, to work through, like a machine, regardless of

powers and principalities, and cutting down the guilty which may stand in its way. Not so in the case of this bank. In its behalf, there are barriers erected between the citizen and his oppressor, between the wrong and the remedy, between the law and the offender. Instead of a right to sue out a *scire facias* or a *quo warranto*, the injured citizen, with an humble petition in his hand, must repair to the President of the United States, or to Congress, and crave their leave to do so. If leave is denied (and denied it will be whenever the bank has a peculiar friend in the President, or a majority of such friends in Congress, the convenient pretext being always at hand that the general welfare requires the bank to be sustained), he can proceed no further. The machinery of the law cannot be set in motion, and the great offender laughs from behind his barrier at the impotent resentment of its helpless victim. Thus the bank, for the plainest violations of its charter, and the greatest oppressions of the citizen, may escape the pursuit of justice. Thus the administration of justice is subject to be strangled in its birth for the shelter and protection of this bank. But this is not all. Another and most alarming mischief results from the same extraordinary privilege. It gives the bank a direct interest in the presidential and congressional elections: it gives it need for friends in Congress and in the presidential chair. Its fate, its very existence, may often depend upon the friendship of the President and Congress; and, in such cases, it is not in human nature to avoid using the immense means in the hands of the bank to influence the elections of these officers. Take the existing fact—the case to which I alluded at the commencement of this speech. There is a case made out, ripe with judicial evidence, and big with the fate of the bank. It is a case of usury at the rate of forty-six per cent., in violation of the charter, which only admits an interest of six. The facts were admitted, in the court below, by the bank's demurrer; the law was decided, in the court above, by the supreme judges. The admission concludes the facts; the decision concludes the law. The forfeiture of the charter is established; the forfeiture is incurred; the application of the forfeiture alone is wanting to put an end to the institution. An impartial President or Congress might let the laws take their course; those of a different temper might interpose their veto. What a crisis for the bank! It beholds the sword of Damocles suspended over its head! What an interest in keeping those away who might suffer the hair to be cut!

"12. To have all these unjust privileges secured to the corporators as a monopoly, by a pledge of the public faith to charter no other bank.—This is the most hideous feature in the whole mass of deformity. If these banks are beneficial institutions, why not several? one, at least, and each independent of the other, to each great section of the Union? If malignant, why create one? The restriction constitutes the monopoly, and renders more invidious what was sufficiently hateful in itself. It is, indeed, a double monopoly, legislative as well as banking; for the Congress of 1816 monopolized the power to grant these monopolies. It has tied up the hands of its successors; and if this can be done on one subject, and for twenty years, why not upon all subjects, and for all time? Here is the form of words which operate this double engrossment of our rights: 'No other bank shall be established by any future law of Congress, during the continuance of the corporation hereby enacted, for which the faith of Congress is hereby pledged;' with a proviso for the District of Columbia. And that no incident might be wanting to complete the title of this charter, to the utter reprobation of whig republicans, this compound monopoly, and the very form of words in which it is conceived, is copied from the charter of the Bank of England!—not the charter of William and Mary, as granted in 1694 (for the Bill of Rights was then fresh in the memories of Englishmen), but the charter as amended, and that for money, in the memorable reign of Queen Anne, when a tory queen, a tory ministry, and a tory parliament, and the apostle of toryism, in the person of Dr. Sacheverell, with his sermons of divine right, passive obedience, and non-resistance, were riding and ruling over the prostrate liberties of England! This is the precious period, and these the noble authors, from which the idea was borrowed, and the very form of words copied, which now figure in the charter of the Bank of the United States, constituting that double monopoly, which restricts at once the powers of Congress and the rights of the citizens.

"These, Mr. President, are the chief of the exclusive privileges which constitute the monopoly of the Bank of the United States. I have spoken of them, not as they deserved, but as my abilities have permitted. I have shown you that they are not only evil in themselves, but copied from an evil example. I now wish to show you that the government from which we have made this copy has condemned the original; and, after showing this fact, I think I shall be able to appeal, with sensible effect, to all liberal minds, to follow the enlightened example of Great Britain, in getting rid of a dangerous and invidious institution, after having followed her pernicious example in assuming it. For this purpose, I will have recourse to proof, and will read from British state papers of 1826. I will read extracts from the correspondence between Earl Liverpool, first Lord of the Treasury, and Mr. Robinson, Chancellor of the Exchequer, on the one side, and the Governor and Deputy Governor of the Bank of England on the other; the subject being the renewal, or rather non-renewal, of the charter of the Bank of England.

Communications from the First Lord of the Treasury and Chancellor of the Exchequer to the Governor and Deputy Governor of the Bank of England.—Extracts.

"'The failures which have occurred in England, unaccompanied as they have been by the same occurrences in Scotland, tend to prove that there must have been an unsolid and delusive system of banking in one part of Great Britain, and a solid and substantial one in the other. * * * * In Scotland, there are not more than thirty banks (three chartered), and these banks have stood firm amidst all the convulsions of the money market in England, and amidst all the distresses to which the manufacturing and agricultural interests in Scotland, as well as in England, have occasionally been subject. Banks of this description must necessarily be conducted upon the generally understood and approved principles of banking. * * * * The Bank of England may, perhaps, propose, as they did upon a former occasion, the extension of the term of their exclusive privilege, as to the metropolis and its neighborhood, beyond the year 1833, as the price of this concession [immediate surrender of exclusive privileges]. It would be very much to be regretted that they should require any such condition. * * * * It is obvious, from what passed before, that Parliament will never agree to it. * * * * Such privileges are out of fashion; and what expectation can the bank, under present circumstances, entertain that theirs will be renewed?'—*Jan.* 13.

Answer of the Court of Directors.—Extract.

"'Under the uncertainty in which the Court of Directors find themselves with respect to the death of the bank, and the effect which they may have on the interests of the bank, this court cannot feel themselves justified in recommending to the proprietors to give up the privilege which they now enjoy, sanctioned and confirmed as it is by the solemn acts of the legislature.'—*Jan.* 20.

Second communication from the Ministers.—Extract.

"'The First Lord of the Treasury and Chancellor of the Exchequer have considered the answer of the bank of the 20th instant. They cannot but regret that the Court of Directors should have declined to recommend to the Court of Proprietors the consideration of the paper delivered by the First Lord of the Treasury and the Chancellor of the Exchequer to the Governor and Deputy Governor on the 13th instant. The statement contained in that paper appears to the First Lord of the Treasury and the Chancellor of the Exchequer so full and explicit on all the points to which it related, that they have nothing further to add, although they would have been, and still are, ready to answer, as far as possible, any specific questions which might be put, for the purpose of removing the uncertainty in which the court of directors state themselves to be with respect to the details of the plan suggested in that paper.'—*Jan.* 23.

Second answer of the Bank.—Extract.

"'The Committee of Treasury [bank] having taken into consideration the paper received from the First Lord of the Treasury and the Chancellor of the Exchequer, dated January 23d, and finding that His Majesty's ministers persevere in their desire to propose to restrict immediately the exclusive privilege of the bank, as to the number of partners engaged in banking to a certain distance from the metropolis, and also continue to be of opinion that Parliament would not consent to renew the privilege at the expiration of the period of their present charter; finding, also, that the proposal by the bank of establishing branch banks is deemed by His Majesty's ministers inadequate to the wants of the country, are of opinion that it would be desirable for this corporation to propose, as a basis, the act of 6th of George the Fourth, which states, the conditions on which the Bank of Ireland relinquished its exclusive privileges; this corporation waiving the question of a prolongation of time, although the committee [of the bank] cannot agree in the opinion of the First Lord of the Treasury and the Chancellor of the Exchequer, that they are not making a considerable sacrifice, adverting especially to the Bank of Ireland remaining in possession of that privilege five years longer than the Bank of England.'—*January* 25.

"Here, Mr. President, is the end of all the exclusive privileges and odious monopoly of the Bank of England. That ancient and powerful institution, so long the haughty tyrant of the moneyed world—so long the subsidizer of kings and ministers—so long the fruitful mother of national debt and useless wars—so long the prolific manufactory of nabobs and paupers—so long the dread dictator of its own terms to parliament—now droops the conquered wing, lowers its proud crest, and quails under the blows of its late despised assailants. It first puts on a courageous air, and takes a stand upon privileges sanctioned by time, and confirmed by solemn acts. Seeing that the ministers could have no more to say to men who would talk of privileges in the nineteenth century, and being reminded that parliament was inexorable, the bully suddenly degenerates into the craven, and, from showing fight, calls for quarter. The directors condescend to beg for the smallest remnant of their former power, for five years only; for the city of London even; and offer to send branches into all quarters. Denied at every point, the subdued tyrant acquiesces in his fate; announces his submission to the spirit and intelligence of the age; and quietly sinks down into

the humble, but safe and useful condition of a Scottish provincial bank.

"And here it is profitable to pause; to look back, and see by what means this ancient and powerful institution—this Babylon of the banking world—was so suddenly and so totally prostrated. Who did it? And with what weapons? Sir, it was done by that power which is now regulating the affairs of the civilized world. It was done by the power of public opinion, invoked by the working members of the British parliament. It was done by Sir Henry Parnell, who led the attack upon the Wellington ministry, on the night of the 15th of November; by Sir William Pulteney, Mr. Grenfell, Mr. Hume, Mr. Edward Ellice, and others, the working members of the House of Commons, such as had, a few years before, overthrown the gigantic oppressions of the salt tax. These are the men who have overthrown the Bank of England. They began the attack in 1824, under the discouraging cry of too soon, too soon—for the charter had then nine years to run! and ended with showing that they had began just soon enough. They began with the ministers in their front, on the side of the bank, and ended with having them on their own side, and making them co-operators in the attack, and the instruments and inflicters of the fatal and final blow. But let us do justice to these ministers. Though wrong in the beginning, they were right in the end; though monarchists, they behaved like republicans. They were not Polignacs. They yielded to the intelligence of the age; they yielded to the spirit which proscribes monopolies and privileges, and in their correspondence with the bank directors, spoke truth and reason and asserted liberal principles, with a point and power which quickly put an end to dangerous and obsolete pretensions. They told the bank the mortifying truths, that its system was unsolid and delusive—that its privileges and monopoly were out of fashion—that they could not be prolonged for five years even—nor suffered to exist in London alone; and, what was still more cutting, that the banks of Scotland, which had no monopoly, no privilege, no connection with the government, which paid interest on deposits, and whose stockholders were responsible to the amount of their shares—were the solid and substantial banks, which alone the public interest could hereafter recognize. They did their business, when they undertook it, like true men; and, in the single phrase, '*out of fashion*,' achieved the most powerful combination of solid argument and contemptuous sarcasm, that ever was compressed into three words. It is a phrase of electrical power over the senses and passions. It throws back the mind to the reigns of the Tudors and Stuarts—the termagant Elizabeth and the pedagogue James—and rouses within us all the shame and rage we have been accustomed to feel at the view of the scandalous sales of privileges and monopolies which were the disgrace and oppression of these wretched times. Out of fashion! Yes; even in England, the land of their early birth, and late protection. And shall they remain in fashion here? Shall republicanism continue to wear, in America, the antique costume which the doughty champions of antiquated fashion have been compelled to doff in England? Shall English lords and ladies continue to find, in the Bank of the United States, the unjust and odious privileges which they can no longer find in the Bank of England? Shall the copy survive here, after the original has been destroyed there? Shall the young whelp triumph in America, after the old lion has been throttled and strangled in England? No! never! The thing is impossible! The Bank of the United States dies, as the Bank of England dies, in all its odious points, upon the limitation of its charter; and the only circumstance of regret is, that the generous deliverance is to take effect two years earlier in the British monarchy than in the American republic. It came to us of war—it will go away with peace. It was born of the war of 1812—it will die in the long peace with which the world is blessed. The arguments on which it was created will no longer apply. Times have changed; and the policy of the republic changes with the times. The war made the bank; peace will unmake it. The baleful planet of fire, and blood, and every human woe, did bring that pestilence upon us; the benignant star of peace shall chase it away."

This speech was not answered. Confident in its strength, and insolent in its nature, the great moneyed power had adopted a system in which she persevered, until hard knocks drove her out of it: it was to have an anti-bank speech treated with the contempt of silence in the House, and caricatured and belittled in the newspapers; and according to this system my speech was treated. The instant it was delivered, Mr. Webster called for the vote, and to be taken by yeas and nays, which was done; and resulted differently from what was expected—a strong vote against the bank—20 to 23; enough to excite uneasiness, but not enough to pass the resolution and legitimate a debate on the subject. The debate stopped with the single speech; but it was a speech to be read by the people—the masses—the millions; and was conceived and delivered for that purpose; and was read by them; and has been complimented since, as having crippled the bank, and given it the wound of which it afterwards died; but not within the year and a day which would make the slayer responsible for the homicide. The list of yeas and nays was also favorable to the effect of the speech. Though not a party vote, it was sufficiently so to show how it stood—the mass of the democ-

racy against the bank—the mass of the anti-democrats against it. The names were:—

"YEAS. — Messrs. Barnard, Benton, Bibb, Brown, Dickerson, Dudley, Forsyth, Grundy, Hayne, Iredell, King, McKinley, Poindexter, Sanford, Smith of S. C., Tazewell, Troup, Tyler, White, Woodbury—20.

"NAYS.—Messrs. Barton, Bell, Burnet, Chase, Clayton, Root, Frelinghuysen, Holmes, Hendricks, Johnston, Knight, Livingston, Marks, Noble, Robbins, Robinson, Ruggles, Seymour, Silsbee, Smith of Md., Sprague, Webster, Willey —23."

CHAPTER LVII.

ERROR OF DE TOCQUEVILLE, IN RELATION TO THE HOUSE OF REPRESENTATIVES.

I HAVE had occasion several times to notice the errors of Monsieur de Tocqueville, in his work upon American democracy. That work is authority in Europe, where it has appeared in several languages; and is sought by some to be made authority here, where it has been translated into English, and published with notes, and a preface to recommend it. It was written with a view to enlighten European opinion in relation to democratic government, and evidently with a candid intent; but abounds with errors to the prejudice of that form of government, which must do it great mischief, both at home and abroad, if not corrected. A fundamental error of this kind—one which goes to the root of representative government, occurs in chapter 8 of his work, where he finds a great difference in the members comprising the two Houses of Congress, attributing an immense superiority to the Senate, and discovering the cause of the difference in the different modes of electing the members—the popular elections of the House, and the legislative elections of the Senate. He says:—

"On entering the House of Representatives at Washington, one is struck with the vulgar demeanor of that great assembly. The eye frequently does not discover a man of celebrity within its walls. Its members are almost all obscure individuals, whose names present no associations to the mind; they are mostly village lawyers, men in trade, or even persons belonging to the lower classes of society. In a country in which education is very general, it is said that the representatives of the people do not always know how to write correctly. At a few yards' distance from this spot is the door of the Senate, which contains within a small space a large proportion of the celebrated men in America. Scarcely an individual is to be found in it, who does not recall the idea of an active and illustrious career. The Senate is composed of eloquent advocates, distinguished generals, wise magistrates, and statesmen of note, whose language would at all times do honor to the most remarkable parliamentary debates of Europe. What, then, is the cause of this strange contrast? and why are the most able citizens to be found in one assembly rather than in the other? Why is the former body remarkable for its vulgarity, and its poverty of talent, whilst the latter seems to enjoy a monopoly of intelligence and of sound judgment? Both of these assemblies emanate from the people. From what cause, then, does so startling a difference arise? The only reason which appears to me adequately to account for it is, that the House of Representatives is elected by the populace directly, and that of the Senate is elected by an indirect application of universal suffrage; but this transmission of the popular authority through an assembly of chosen men operates an important change in it, by refining its discretion and improving the forms which it adopts. Men who are chosen in this manner, accurately represent the majority of the nation which governs them; but they represent the elevated thoughts which are current in the community, the generous propensities which prompt its nobler actions, rather than the petty passions which disturb, or the vices which disgrace it. The time may be already anticipated at which the American republics will be obliged to introduce the plan of election by an elected body more frequently into their system of representation, or they will incur no small risk of perishing miserably among the shoals of democracy." —*Chapter* 8.

The whole tenor of these paragraphs is to disparage the democracy—to disparage democratic government—to attack fundamentally the principle of popular election itself. They disqualify the people for self-government, hold them to be incapable of exercising the elective franchise, and predict the downfall of our republican system, if that franchise is not still further restricted, and the popular vote—the vote of the people—reduced to the subaltern choice of persons to vote for them. These are profound errors on the part of Mons. de Tocqueville, which require to be exposed and corrected; and the correction of which comes within the scope of this work, intended to show the capacity of the people for self-government, and the advantage of extending—instead of restricting—the privi-

lege of the direct vote. He seems to look upon the members of the two Houses as different orders of beings—different classes—a higher and a lower class; the former placed in the Senate by the wisdom of State legislatures, the latter in the House of Representatives by the folly of the people—when the fact is, that they are not only of the same order and class, but mainly the same individuals. The Senate is almost entirely made up out of the House! and it is quite certain that every senator whom Mons. de Tocqueville had in his eye when he bestowed such encomium on that body had come from the House of Representatives! placed there by the popular vote, and afterwards transferred to the Senate by the legislature; not as new men just discovered by the superior sagacity of that body, but as public men with national reputations, already illustrated by the operation of popular elections. And if Mons. de Tocqueville had chanced to make his visit some years sooner, he would have seen almost every one of these senators, to whom his exclusive praise is directed, actually sitting in the other House.

Away, then, with his fact! and with it, away with all his fanciful theory of wise elections by small electoral colleges, and silly ones by the people! and away with all his logical deductions, from premises which have no existence, and which would have us still further to "refine popular discretion," by increasing and extending the number of electoral colleges through which it is to be filtrated. Not only all vanishes, but his praise goes to the other side, and redounds to the credit of popular elections; for almost every distinguished man in the Senate or in any other department of the government, now or heretofore—from the Congress of Independence down to the present day—has owed his first elevation and distinction to popular elections—to the direct vote of the people, given, without the intervention of any intermediate body, to the visible object of their choice; and it is the same in other countries, now and always. The English, the Scotch and the Irish have no electoral colleges; they vote direct, and are never without their ablest men in the House of Commons. The Romans voted direct; and for five hundred years—until fair elections were detsroyed by force and fraud—never failed to elect consuls and prætors, who carried the glory of their country beyond the point at which they had found it.

The American people know this—know that popular election has given them every eminent public man that they have ever had—that it is the safest and wisest mode of political election—most free from intrigue and corruption; and instead of further restricting that mode, and reducing the masses to mere electors of electors, they are, in fact, extending it, and altering constitutions to carry elections to the people, which were formerly given to the general assemblies. Many States furnish examples of this. Even the constitution of the United States has been overruled by universal public sentiment in the greatest of its elections—that of President and Vice-President. The electoral college by that instrument, both its words and intent, was to have been an independent body, exercising its own discretion in the choice of these high officers. On the contrary, it has been reduced to a mere formality for the registration of the votes which the people prepare and exact. The speculations of Monsieur de Tocqueville are, therefore, groundless; and must be hurtful to representative government in Europe, where the facts are unknown; and may be injurious among ourselves, where his book is translated into English, with a preface and notes to recommend it.

Admitting that there might be a difference between the appearance of the two Houses, and between their talent, at the time that Mons. de Tocqueville looked in upon them, yet that difference, so far as it might then have existed, was accidental and temporary, and has already vanished. And so far as it may have appeared, or may appear in other times, the difference in favor of the Senate may be found in causes very different from those of more or less judgment and virtue in the constituencies which elect the two Houses. The Senate is a smaller body, and therefore may be more decorous; it is composed of older men, and therefore should be graver, its members have usually served in the highest branches of the State governments, and in the House of Representatives, and therefere should be more experienced; its terms of service are longer, and therefore give more time for talent to mature, and for the measures to be carried which confer fame. Finally, the Senate is in great part composed of the pick of the House, and therefore gains double—by brilliant accession to itself and abstraction from the other. These are causes enough to account for any oc-

casional, or general difference which may show itself in the decorum or ability of the two Houses. But there is another cause, which is found in the practice of some of the States—the caucus system and rotation in office—which brings in men unknown to the people, and turns them out as they begin to be useful; to be succeeded by other new beginners, who are in turn turned out to make room for more new ones; all by virtue of arrangements which look to individual interests, and not to the public good.

The injury of these changes to the business qualities of the House and the interests of the State, is readily conceivable, and very visible in the delegations of States where they do, or do not prevail—in some Northern and some Southern States, for example. To name them might seem invidious, and is not necessary, the statement of the general fact being sufficient to indicate an evil which requires correction. Short terms of service are good on account of their responsibility, and two years is a good legal term; but every contrivance is vicious, and also inconsistent with the re-eligibility permitted by the constitution, which prevents the people from continuing a member as long as they deem him useful to them. Statesmen are not improvised in any country; and in our own, as well as in Great Britain, great political reputations have only been acquired after long service—20, 30, 40, and even 50 years; and great measures have only been carried by an equal number of years of persevering exertion by the same man who commenced them. Earl Grey and Major Cartwright—I take the aristocratic and the democratic leaders of the movement—only carried British parliamentry reform after forty years of annual consecutive exertion. They organized the Society for Parliamentry Reform in 1792, and carried the reform in 1832—disfranchising 56 burgs, half disfranchising 31 others, enfranchising 41 new towns; and doubling the number of voters by extending the privilege to £10 householders—extorting, perhaps, the greatest concession from power and corruption to popular right that was ever obtained by civil and legal means. Yet this was only done upon forty years' continued annual exertions. Two men did it, but it took them forty years.

The same may be said of other great British measures—Catholic emancipation, corn law repeal, abolition of the slave trade, and many others; each requiring a lifetime of continued exertion from devoted men. Short service, and not popular election, is the evil of the House of Representatives; and this becomes more apparent by contrast—contrast between the North and the South—the caucus, or rotary system, not prevailing in the South, and useful members being usually continued from that quarter as long as useful; and thus with fewer members, usually showing a greater number of men who have attained a distinction. Monsieur de Tocqueville is profoundly wrong, and does great injury to democratic government, as his theory countenances the monarchial idea of the incapacity of the people for self-government. They are with us the best and safest depositories of the political elective power. They have not only furnished to the Senate its ablest members through the House of Representatives, but have sometimes repaired the injustice of State legislatures, which repulsed or discarded some eminent men. The late Mr. John Quincy Adams, after forty years of illustrious service—after having been minister to half the great courts of Europe, a senator in Congress, Secretary of State, and President of the United States—in the full possession of all his great faculties, was refused an election by the Massachusetts legislature to the United States Senate, where he had served thirty years before. Refused by the legislature, he was taken up by the people, sent to the House of Representatives, and served there to octogenarian age—attentive, vigilant and capable—an example to all, and a match for half the House to the last. The brilliant, incorruptible, sagacious Randolph—friend of the people, of the constitution, of economy and hard money—scourge and foe to all corruption, plunder and jobbing—had nearly the same fate; dropped from the Senate by the Virginia general assembly, restored to the House of Representatives by the people of his district, to remain there till, following the example of his friend, the wise Macon, he voluntarily withdrew. I name no more, confining myself to instances of the illustrious dead.

I have been the more particular to correct this error of De Tocqueville, because, while disparaging democratic government generally, it especially disparages that branch of our government which was intended to be the controlling part. Two clauses of the constitution—one

vesting the House of Representatives with the sole power of originating revenue bills, the other with the sole power of impeachment—sufficiently attest the high function to which that House was appointed. They are both borrowed from the British constitution, where their effect has been seen in controlling the course of the whole government, and bringing great criminals to the bar. No sovereign, no ministry holds out an hour against the decision of the House of Commons. Though an imperfect representation of the people, even with the great ameliorations of the reform act of 1832, it is at once the democratic branch, and the master-branch of the British government. Wellington administrations have to retire before it. Bengal Governors-General have to appear as criminals at its bar. It is the theatre which attracts the talent, the patriotism, the high spirit, and the lofty ambition of the British empire; and the people look to it as the master-power in the working of the government, and the one in which their will has weight. No rising man, with ability to acquire a national reputation, will quit it for a peerage and a seat in the House of Lords. Our House of Representatives, with its two commanding prerogatives and a perfect representation, should not fall below the British House of Commons in the fulfilment of its mission. It should not become second to the Senate, and in the beginning it did not. For the first thirty years it was the controlling branch of the government, and the one on whose action the public eye was fixed. Since then the Senate has been taking the first place, and people have looked less to the House. This is an injury above what concerns the House itself. It is an injury to our institutions, and to the people. The high functions of the House were given to it for wise purposes—for paramount national objects. It is the immediate representation of the people, and should command their confidence and their hopes. As the sole originator of tax bills, it is the sole dispenser of burthens on the people, and of supplies to the government. As sole authors of impeachment, it is the grand inquest of the nation, and has supervision over all official delinquencies. Duty to itself, to its high functions, to the people, to the constitution, and to the character of democratic government, require it to resume and maintain its controlling place in the machinery and working of our federal government: and that is what it has commenced doing in the last two or three sessions—and with happy results to the economy of the public service—and in preventing an increase of the evils of our diplomatic representation abroad.

CHAPTER LVIII.

THE TWENTY-SECOND CONGRESS.

This body commenced its first session the 5th of December, 1831, and terminated that session July 17th, 1832; and for this session alone belongs to the most memorable in the annals of our government. It was the one at which the great contest for the renewal of the charter of the Bank of the United States was brought on, and decided—enough of itself to entitle it to lasting remembrance, though replete with other important measures. It embraced, in the list of members of the two Houses, much shining talent, and a great mass of useful ability, and among their names will be found many, then most eminent in the Union, and others destined to become so. The following are the names:

SENATE.

Maine—John Holmes, Peleg Sprague.
New Hampshire—Samuel Bell, Isaac Hill.
Massachusetts—Daniel Webster, Nathaniel Silsbee.
Rhode Island—Nehemiah R. Knight, Asher Robbins.
Connecticut—Samuel A. Foot, Gideon Tomlinson.
Vermont—Horatio Seymour, Samuel Prentiss.
New-York—Charles E. Dudley, Wm. Marcy.
New Jersey—M. Dickerson, Theodore Frelinghuysen.
Pennsylvania—Geo. M. Dallas, Wm. Wilkins.
Delaware—John M. Clayton, Arnold Naudain.
Maryland—E. F. Chambers, Samuel Smith.
Virginia—Littleton W. Tazewell, John Tyler.
North Carolina—B. Brown, W. P. Mangum.
South Carolina—Robert Y. Hayne, S. D. Miller.
Georgia—George M. Troup, John Forsyth.
Kentucky—George M. Bibb, Henry Clay.
Tennessee—Felix Grundy, Hugh L. White.
Ohio—Benjamin Ruggles, Thomas Ewing.

LOUISIANA—J. S. Johnston, Geo. A. Waggaman.

INDIANA—William Hendricks, Robert Hanna.

MISSISSIPPI—Powhatan Ellis, Geo. Poindexter.

ILLINOIS—Elias K. Kane, John M. Robinson.

ALABAMA—William R. King, Gabriel Moore.

MISSOURI—Thomas H. Benton, Alex. Buckner.

HOUSE OF REPRESENTATIVES.

From MAINE—John Anderson, James Bates, George Evans, Cornelius Holland, Leonard Jarvis, Edward Kavanagh, Rufus McIntire.

NEW HAMPSHIRE—John Brodhead, Thomas Chandler, Joseph Hammons, Henry Hubbard, Joseph M. Harper, John W. Weeks.

MASSACHUSETTS—John Quincy Adams, Nathan Appleton, Isaac C. Bates, George N. Briggs, Rufus Choate, Henry A. S. Dearborn, John Davis, Edward Everett, George Grennell, jun., James L. Hodges, Joseph G. Kendall, John Reed. (*One vacancy.*)

RHODE ISLAND—Tristam Burgess, Dutee J. Pearce.

CONNECTICUT—Noyes Barber, William W. Ellsworth, Jabez W. Huntington, Ralph I. Ingersoll, William L. Storrs, Ebenezer Young.

VERMONT—Heman Allen, William Cahoon, Horace Everett, Jonathan Hunt, William Slade.

NEW YORK—William G. Angel, Gideon H. Barstow, Joseph Bouck, William Babcock, John T. Bergen, John C. Brodhead, Samuel Beardsley, John A. Collier, Bates Cooke, C. C. Cambreleng, John Dickson, Charles Dayan, Ulysses F. Doubleday, William Hogan, Michael Hoffman, Freeborn G. Jewett, John King, Gerrit Y. Lansing, James Lent, Job Pierson, Nathaniel Pitcher, Edmund H. Pendleton, Edward C. Reed, Erastus Root, Nathan Soule, John W. Taylor, Phineas L. Tracy, Gulian C. Verplanck, Frederic Whittlesey, Samuel J. Wilkin, Grattan H. Wheeler, Campbell P White, Aaron Ward, Daniel Wardwell.

NEW JERSEY—Lewis Condict, Silas Condict, Richard M. Cooper, Thomas H. Hughes, James Fitz Randolph, Isaac Southard.

PENNSYLVANIA—Robert Allison, John Banks, George Burd, John C. Bucher, Thomas H. Crawford, Richard Coulter, Harmar Denny, Lewis Dewart, Joshua Evans, James Ford, John Gilmore, William Heister, Henry Horn, Peter Ihrie, jun., Adam King, Henry King, Joel K. Mann, Robert McCoy, Henry A. Muhlenberg, T. M. McKennan, David Potts, jun., Andrew Stewart, Samuel A. Smith, Philander Stephens, Joel B. Sutherland, John G. Watmough.

DELAWARE—John J. Milligan.

MARYLAND—Benjamin C. Howard, Daniel Jenifer, John L. Kerr, George E. Mitchell, Benedict I. Semmes, John S. Spence, Francis Thomas, George C. Washington, J. T. H. Worthington.

VIRGINIA—Mark Alexander, Robert Allen, William S. Archer, William Armstrong, John S. Barbour, Thomas T. Bouldin, Nathaniel H. Claiborne, Robert Craig, Joseph W. Chinn, Richard Coke, jun., Thomas Davenport, Philip Dodd..dge, Wm. F. Gord'n, Charles C. Johnston, John Y. Mason, Lewis Maxwell, Charles F. Mercer, William McCoy, Thomas Newton, John M. Patton, John J. Roane, Andrew Stevenson.

NORTH CAROLINA—Dan'l L. Barringer, Laughlin Bethune, John Branch, Samuel P. Carson, Henry W. Conner, Thomas H. Hall, Micajah T. Hawkins, James J. McKay, Abraham Rencher, William B. Shepard, Augustine H. Shepperd, Jesse Speight, Lewis Williams.

SOUTH CAROLINA—Robert W. Barnwell, Jas. Blair, Warren R. Davis, William Drayton, John M. Felder, J. R. Griffin, Thomas R. Mitchell, George McDuffie, Wm. T. Nuckolls.

GEORGIA—Thomas F. Foster, Henry G. Lamar, Daniel Newnan, Wiley Thompson, Richard H. Wilde, James M. Wayne. (*One vacancy.*)

KENTUCKY—John Adair, Chilton Allan, Henry Daniel, Nathan Gaither, Albert G. Hawes, R. M. Johnson, Joseph Lecompte, Chittenden Lyon, Robert P. Letcher, Thomas A. Marshall, Christopher Tompkins, Charles A. Wickliffe.

TENNESSEE—Thomas D. Arnold, John Bell, John Blair, William Fitzgerald, William Hall, Jacob C. Isacks, Cave Johnson, James K. Polk James Standifer.

OHIO—Joseph H. Crane, Eleutheros Cooke William Creighton, jun., Thomas Corwin, James Findlay, William W. Irwin, William Kennon, Humphrey H. Leavitt, William Russel, William Stanberry, John Thomson, Joseph Vance, Samuel F. Vinton, Elisha Whittlesey.

LOUISIANA—H. A. Bullard, Philemon Thomas, Edward D. White.

INDIANA—Ratliff Boon, John Carr, Jonathan McCarty.

MISSISSIPPI—Franklin E. Plummer.

ILLINOIS—Joseph Duncan.

ALABAMA—Clement C. Clay, Dixon H. Lewis, Samuel W. Mardis.

MISSOURI—William H. Ashley.

DELEGATES.

MICHIGAN—Austin E. Wing.

ARKANSAS—Ambrose H. Sevier.

FLORIDA—Joseph M. White.

Andrew Stevenson, Esq., of Virginia, was re-elected speaker; and both branches of the body being democratic, they were organized, in a party sense, as favorable to the administration, although the most essential of the committees, when the Bank question unexpectedly sprung up, were found to be on the side of that institution. In his message to the two Houses, the President presented a condensed and general view of our relations, political and commercial,

with foreign nations, from which the leading passages are here given:

"After our transition from the state of colonies to that of an independent nation, many points were found necessary to be settled between us and Great Britain. Among them was the demarcation of boundaries, not described with sufficient precision in the treaty of peace. Some of the lines that divide the States and territories of the United States from the British provinces, have been definitively fixed. That, however, which separates us from the provinces of Canada and New Brunswick to the North and the East, was still in dispute when I came into office. But I found arrangements made for its settlement, over which I had no control. The commissioners who had been appointed under the provisions of the treaty of Ghent, having been unable to agree, a convention was made with Great Britain by my immediate predecessor in office, with the advice and consent of the Senate, by which it was agreed 'that the points of difference which have arisen in the settlement of the boundary line between the American and British dominions, as described in the fifth article of the treaty of Ghent, shall be referred, as therein provided, to some friendly sovereign or State, who shall be invited to investigate, and make a decision upon such points of difference:' and the King of the Netherlands having, by the late President and his Britannic Majesty, been designated as such friendly sovereign, it became my duty to carry, with good faith, the agreement, so made, into full effect. To this end I caused all the measures to be taken which were necessary to a full exposition of our case to the sovereign arbiter; and nominated as minister plenipotentiary to his court, a distinguished citizen of the State most interested in the question, and who had been one of the agents previously employed for settling the controversy. On the 10th day of January last, His Majesty the King of the Netherlands delivered to the plenipotentiaries of the United States, and of Great Britain, his written opinion on the case referred to him. The papers in relation to the subject will be communicated, by a special message, to the proper branch of the government, with the perfect confidence that its wisdom will adopt such measures as will secure an amicable settlement of the controversy, without infringing any constitutional right of the States immediately interested.

"In my message at the opening of the last session of Congress, I expressed a confident hope that the justice of our claims upon France, urged as they were with perseverance and signal ability by our minister there, would finally be acknowledged. This hope has been realized. A treaty has been signed, which will immediately be laid before the Senate for its approbation; and which, containing stipulations that require legislative acts, must have the concurrence of both Houses before it can be carried into effect.

"Should this treaty receive the proper sanction, a source of irritation will be stopped, that has, for so many years, in some degree alienated from each other two nations who, from interest as well as the remembrance of early associations, ought to cherish the most friendly relations—an encouragement will be given for perseverance in the demands of justice, by this new proof, that, if steadily pursued, they will be listened to—and admonition will be offered to those powers, if any, which may be inclined to evade them, that they will never be abandoned. Above all, a just confidence will be inspired in our fellow-citizens, that their government will exert all the powers with which they have invested it, in support of their just claims upon foreign nations; at the same time that the frank acknowledgment and provision for the payment of those which were addressed to our equity, although unsupported by legal proof, affords a practical illustration of our submission to the Divine rule of doing to others what we desire they should do unto us.

"Sweden and Denmark having made compensation for the irregularities committed by their vessels, or in their ports, to the perfect satisfaction of the parties concerned, and having renewed the treaties of commerce entered into with them, our political and commercial relations with those powers continue to be on the most friendly footing.

"With Spain, our differences up to the 22d of February, 1819, were settled by the treaty of Washington of that date; but, at a subsequent period, our commerce with the states formerly colonies of Spain, on the continent of America, was annoyed and frequently interrupted by her public and private armed ships. They captured many of our vessels prosecuting a lawful commerce, and sold them and their cargoes; and at one time, to our demands for restoration and indemnity, opposed the allegation, that they were taken in the violation of a blockade of all the ports of those states. This blockade was declaratory only, and the inadequacy of the force to maintain it was so manifest, that this allegation was varied to a charge of trade in contraband of war. This, in its turn, was also found untenable; and the minister whom I sent with instructions to press for the reparation that was due to our injured fellow-citizens, has transmitted an answer to his demand, by which the captures are declared to have been legal, and are justified because the independence of the states of America never having been acknowledged by Spain, she had a right to prohibit trade with them under her old colonial laws. This ground of defence was contradictory, not only to those which had been formerly alleged, but to the uniform practice and established laws of nations; and had been abandoned by Spain herself in the convention which granted indemnity to British subjects for captures made at the same time, under the same circumstances, and for the same allegations with those of which we complain.

"I, however, indulge the hope that further reflection will lead to other views, and feel confident, that when his Catholic Majesty shall be convinced of the justice of the claim, his desire to preserve friendly relations between the two countries, which it is my earnest endeavor to maintain, will induce him to accede to our demand. I have therefore dispatched a special messenger, with instructions to our minister to bring the case once more to his consideration; to the end that if, which I cannot bring myself to believe, the same decision, that cannot but be deemed an unfriendly denial of justice, should be persisted in, the matter may, before your adjournment, be laid before you, the constitutional judges of what is proper to be done when negotiation for redress of injury fails.

"The conclusion of a treaty for indemnity with France, seemed to present a favorable opportunity to renew our claims of a similar nature on other powers, and particularly in the case of those upon Naples; more especially as, in the course of former negotiations with that power, our failure to induce France to render us justice was used as an argument against us. The desires of the merchants who were the principal sufferers, have therefore been acceded to, and a mission has been instituted for the special purpose of obtaining for them a reparation already too long delayed. This measure having been resolved on, it was put in execution without waiting for the meeting of Congress, because the state of Europe created an apprehension of events that might have rendered our application ineffectual.

"Our demands upon the government of the Two Sicilies are of a peculiar nature. The injuries on which they are founded are not denied, nor are the atrocity and perfidy under which those injuries were perpetrated attempted to be extenuated. The sole ground on which indemnity has been refused is the alleged illegality of the tenure by which the monarch who made the seizures held his crown. This defence, always unfounded in any principle of the law of nations —now universally abandoned, even by those powers upon whom the responsibility for acts of past rulers bore the most heavily, will unquestionably be given up by his Sicilian Majesty, whose counsels will receive an impulse from that high sense of honor and regard to justice which are said to characterize him; and I feel the fullest confidence that the talents of the citizen commissioned for that purpose will place before him the just claims of our injured citizens in such a light as will enable me, before your adjournment, to announce that they have been adjusted and secured. Precise instructions, to the effect of bringing the negotiation to a speedy issue, have been given, and will be obeyed.

"In the late blockade of Terceira, some of the Portuguese fleet captured several of our vessels, and committed other excesses, for which reparation was demanded; and I was on the point of dispatching an armed force, to prevent any recurrence of a similar violence, and protect our citizens in the prosecution of their lawful commerce, when official assurances, on which I relied, made the sailing of the ships unnecessary. Since that period, frequent promises have been made that full indemnity shall be given for the injuries inflicted and the losses sustained. In the performance there has been some, perhaps unavoidable, delay; but I have the fullest confidence that my earnest desire that this business may at once be closed, which our minister has been instructed strongly to express, will very soon be gratified. I have the better ground for this hope, from the evidence of a friendly disposition which that government has shown by an actual reduction in the duty on rice, the produce of our Southern States, authorizing the anticipation that this important article of our export will soon be admitted on the same footing with that produced by the most favored nation.

"With the other powers of Europe, we have fortunately had no cause of discussions for the redress of injuries. With the Empire of the Russias, our political connection is of the most friendly, and our commercial of the most liberal kind. We enjoy the advantages of navigation and trade, given to the most favored nation; but it has not yet suited their policy, or perhaps has not been found convenient from other considerations, to give stability and reciprocity to those privileges, by a commercial treaty. The ill-health of the minister last year charged with making a proposition for that arrangement, did not permit him to remain at St. Petersburg; and the attention of that government, during the whole of the period since his departure, having been occupied by the war in which it was engaged, we have been assured that nothing could have been effected by his presence. A minister will soon be nominated, as well to effect this important object, as to keep up the relations of amity and good understanding of which we have received so many assurances and proofs from his Imperial Majesty and the Emperor his predecessor.

"The treaty with Austria is opening to us an important trade with the hereditary dominions of the Emperor, the value of which has been hitherto little known, and of course not sufficiently appreciated. While our commerce finds an entrance into the south of Germany by means of this treaty, those we have formed with the Hanseatic towns and Prussia, and others now in negotiation, will open that vast country to the enterprising spirit of our merchants on the north; a country abounding in all the materials for a mutually beneficial commerce, filled with enlightened and industrious inhabitants, holding an important place in the politics of Europe, and to which we owe so many valuable citizens. The ratification of the treaty with the Porte was sent to be exchanged by the gentleman appointed our chargé d'affaires to that court. Some difficulties occurred on his arrival; but at the date of his last official dispatch, he supposed they had

been obviated, and that there was every prospect of the exchange being speedily effected.

"This finishes the connected view I have thought it proper to give of our political and commercial relations in Europe. Every effort in my power will be continued to strengthen and extend them by treaties founded on principles of the most perfect reciprocity of interest, neither asking nor conceding any exclusive advantage, but liberating, as far as it lies in my power, the activity and industry of our fellow-citizens from the shackles which foreign restrictions may impose.

"To China and the East Indies, our commerce continues in its usual extent, and with increased facilities, which the credit and capital of our merchants afford, by substituting bills for payments in specie. A daring outrage having been committed in those seas by the plunder of one of our merchantmen engaged in the pepper trade at a port in Sumatra, and the piratical perpetrators belonging to tribes in such a state of society that the usual course of proceeding between civilized nations could not be pursued, I forthwith dispatched a frigate with orders to require immediate satisfaction for the injury, and indemnity to the sufferers.

"Few changes have taken place in our connections with the independent States of America since my last communication to Congress. The ratification of a commercial treaty with the United Republics of Mexico has been for some time under deliberation in their Congress, but was still undecided at the date of our last dispatches. The unhappy civil commotions that have prevailed there, were undoubtedly the cause of the delay; but as the government is now said to be tranquillized, we may hope soon to receive the ratification of the treaty, and an arrangement for the demarcation of the boundaries between us. In the mean time, an important trade has been opened, with mutual benefit, from St. Louis, in the State of Missouri, by caravans, to the interior provinces of Mexico. This commerce is protected in its progress through the Indian countries by the troops of the United States, which have been permitted to escort the caravans beyond our boundaries to the settled part of the Mexican territory.

"From Central America I have received assurances of the most friendly kind, and a gratifying application for our good offices to remove a supposed indisposition towards that government in a neighboring state: this application was immediately and successfully complied with. They gave us also the pleasing intelligence, that differences which had prevailed in their internal affairs had been peaceably adjusted. Our treaty with this republic continues to be faithfully observed, and promises a great and beneficial commerce between the two countries; a commerce of the greatest importance, if the magnificent project of a ship canal through the dominions of that state, from the Atlantic to the Pacific Ocean, now in serious contemplation, shall be executed.

"I have great satisfaction in communicating the success which has attended the exertions of our minister in Colombia to procure a very considerable reduction in the duties on our flour in that republic. Indemnity, also, has been stipulated for injuries received by our merchants from illegal seizures; and renewed assurances are given that the treaty between the two countries shall be faithfully observed.

"Chili and Peru seem to be still threatened with civil commotions; and, until they shall be settled, disorders may naturally be apprehended, requiring the constant presence of a naval force in the Pacific Ocean, to protect our fisheries and guard our commerce.

"The disturbances that took place in the Empire of Brazil, previously to, and immediately consequent upon, the abdication of the late Emperor, necessarily suspended any effectual application for the redress of some past injuries suffered by our citizens from that government, while they have been the cause of others, in which all foreigners seem to have participated. Instructions have been given to our minister there, to press for indemnity due for losses occasioned by these irregularities, and to take care that our fellow-citizens shall enjoy all the privileges stipulated in their favor, by the treaty lately made between the two powers; all which, the good intelligence that prevails between our minister at Rio Janeiro and the regency gives us the best reason to expect.

"I should have placed Buenos Ayres on the list of South American powers, in respect to which nothing of importance affecting us was to be communicated, but for occurrences which have lately taken place at the Falkland Islands, in which the name of that republic has been used to cover with a show of authority acts injurious to our commerce, and to the property and liberty of our fellow-citizens. In the course of the present year, one of our vessels engaged in the pursuit of a trade which we have always enjoyed without molestation, has been captured by a band acting, as they pretend, under the authority of the government of Buenos Ayres. I have therefore given orders for the dispatch of an armed vessel, to join our squadron in those seas, and aid in affording all lawful protection to our trade which shall be necessary; and shall, without delay, send a minister to inquire into the nature of the circumstances, and also of the claim, if any, that is set up by that government to those islands. In the mean time, I submit the case to the consideration of Congress, to the end that they may clothe the Executive with such authority and means as they may deem necessary for providing a force adequate to the complete protection of our fellow-citizens fishing and trading in those seas.

"This rapid sketch of our foreign relations, it is hoped, fellow-citizens, may be of some use in so much of your legislation as may bear on that

important subject; while it affords to the country at large a source of high gratificaton in the contemplation of our political and commercial connection with the rest of the world. At peace with all—having subjects of future difference with few, and those susceptible of easy adjustment—extending our commerce gradually on all sides, and on none by any but the most liberal and mutually beneficial means—we may, by the blessing of Providence, hope for all that national prosperity which can be derived from an intercourse with foreign nations, guided by those eternal principles of justice and reciprocal good will which are binding as well upon States as the individuals of whom they are composed.

"I have great satisfaction in making this statement of our affairs, because the course of our national policy enables me to do it without any indiscreet exposure of what in other governments is usually concealed from the people. Having none but a straightforward, open course to pursue—guided by a single principle that will bear the strongest light—we have happily no political combinations to form, no alliances to entangle us, no complicated interests to consult; and in subjecting all we have done to the consideration of our citizens, and to the inspection of the world, we give no advantage to other nations, and lay ourselves open to no injury."

This clear and succinct account of the state of our foreign relations makes us fully acquainted with these affairs as they then stood, and presents a view of questions to be settled with several powers which were to receive their solution from the firm and friendly spirit in which they would be urged. Turning to our domestic concerns, the message thus speaks of the finances; showing a gradual increase, the rapid extinction of the public debt, and that a revenue of 27¼ millions was about double the amount of all expenditures, exclusive of what that extinction absorbed:

"The state of the public finances will be fully shown by the Secretary of the Treasury, in the report which he will presently lay before you. I will here, however, congratulate you upon their prosperous condition. The revenue received in the present year will not fall short of twenty-seven million seven hundred thousand dollars; and the expenditures for all objects other than the public debt will not exceed fourteen million seven hundred thousand. The payment on account of the principal and interest of the debt, during the year, will exceed sixteen millions and a half of dollars: a greater sum than has been applied to that object, out of the revenue, in any year since the enlargement of the sinking fund, except the two years following immediately thereafter. The amount which will have been applied to the public debt from the 4th of March, 1829, to the 1st of January next, which is less than three years since the administration has been placed in my hands, will exceed forty millions of dollars."

On the subject of government insolvent debtors, the message said:

"In my annual message of December, 1829, I had the honor to recommend the adoption of a more liberal policy than that which then prevailed towards unfortunate debtors to the government; and I deem it my duty again to invite your attention to this subject. Actuated by similar views, Congress at their last session passed an act for the relief of certain insolvent debtors of the United States: but the provisions of that law have not been deemed such as were adequate to that relief to this unfortunate class of our fellow-citizens, which may be safely extended to them. The points in which the law appears to be defective will be particularly communicated by the Secretary of the Treasury: and I take pleasure in recommending such an extension of its provisions as will unfetter the enterprise of a valuable portion of our citizens, and restore to them the means of usefulness to themselves and the community."

Recurring to his previous recommendation in favor of giving the election of President and Vice-President to the direct vote of the people, the message says:

"I have heretofore recommended amendments of the federal constitution giving the election of President and Vice-President to the people, and limiting the service of the former to a single term. So important do I consider these changes in our fundamental law, that I cannot, in accordance with my sense of duty, omit to press them upon the consideration of a new Congress. For my views more at large, as well in relation to these points as to the disqualification of members of Congress to receive an office from a President in whose election they have had an official agency, which I proposed as a substitute, I refer you to my former messages."

And concludes thus in relation to the Bank of the United States:

"Entertaining the opinions heretofore expressed in relation to the Bank of the United States, as at present organized, I felt it my duty, in my former messages, frankly to disclose them, in order that the attention of the legislature and the people should be seasonably directed to that important subject, and that it might be considered and finally disposed of in a manner best calculated to promote the ends of the constitution, and subserve the public interests. Having thus conscientiously discharged a constitutional duty, I deem it proper, on this occasion, without a more particular reference to the views of the subject

then expressed, to leave it for the present to the investigation of an enlightend people and their representatives."

CHAPTER LIX.

REJECTION OF MR. VAN BUREN, MINISTER TO ENGLAND.

At the period of the election of General Jackson to the Presidency, four gentlemen stood prominent in the political ranks, each indicated by his friends for the succession, and each willing to be the General's successor. They were Messrs. Clay and Webster, and Messrs. Calhoun and Van Buren; the two former classing politically against General Jackson—the two latter with him. But an event soon occurred to override all political distinction, and to bring discordant and rival elements to work together for a common object. That event was the appointment of Mr. Van Buren to be Secretary of State—a post then looked upon as a stepping-stone to the Presidency—and the imputed predilection of General Jackson for him. This presented him as an obstacle in the path of the other three, and which the interest of each required to be got out of the way. The strife first, and soon, began in the cabinet, where Mr. Calhoun had several friends; and Mr. Van Buren, seeing that General Jackson's administration was likely to be embarrassed on his account, determined to resign his post—having first seen the triumph of the new administration in the recovery of the British West India trade, and the successful commencement of other negotiations, which settled all outstanding difficulties with other nations, and shed such lustre upon Jackson's diplomacy. He made known his design to the President, and his wish to retire from the cabinet—did so—received the appointment of minister to London, and immediately left the United States; and the cabinet, having been from the beginning without harmony or cohesion, was dissolved—some resigning voluntarily, the rest under requisition—as already related in the chapter on the dissolution of the cabinet. The voluntary resigning members were classed as friends to Mr. Van Buren, the involuntary as opposed to him, and two of them (Messrs. Ingham and Branch) as friends to Mr. Calhoun; and became, of course, alienated from General Jackson. I was particularly grieved at this breach between Mr. Branch and the President, having known him from boyhood—been school-fellows together, and being well acquainted with his inviolable honor and long and faithful attachment to General Jackson. It was the complete extinction of the cabinet, and a new one was formed.

Mr. Van Buren had nothing to do with this dissolution, of which General Jackson has borne voluntary and written testimony, to be used in this chapter; and also left behind him a written account of the true cause, now first published in this Thirty Years' View, fully exonerating Mr. Van Buren from all concern in that event, and showing his regret that it had occurred. But the whole catastrophe was charged upon him by his political opponents, and for the unworthy purpose of ousting the friends of Mr. Calhoun, and procuring a new set of members entirely devoted to his interest. This imputation was negatived by his immediate departure from the country, setting out at once upon his mission, without awaiting the action of the Senate on his nomination. This was in the summer of 1831. Early in the ensuing session—at its very commencement, in fact—his nomination was sent in, and it was quickly perceptible that there was to be an attack upon him—a combined one; the three rival statesmen acting in concert, and each backed by all his friends. No one outside of the combination, myself alone excepted, could believe it would be successful. I saw they were masters of the nomination from the first day, and would reject it when they were ready to exhibit a case of justification to the country: and so informed General Jackson from an early period in the session. The numbers were sufficient: the difficulty was to make up a case to satisfy the people; and that was found to be a tedious business.

Fifty days were consumed in these preliminaries—to be precise, fifty-one; and that in addition to months of preparation before the Senate met. The preparation was long, but the attack vigorous; and when commenced, the business was finished in two days. There were about a dozen set speeches against him, from as many different speakers—about double the number that spoke against Warren Hastings—and but four off-hand replies for him; and it was evident that the three chiefs had brought up all their friends to the work. It was an unprecedented array of numbers and talent against one

individual, and he absent,—and of such amenity of manners as usually to disarm political opposition of all its virulence. The causes of objection were supposed to be found in four different heads of accusation; each of which was elaborately urged:

1. The instructions drawn up and signed by Mr. Van Buren as Secretary of State, under the direction of the President, and furnished to Mr. McLane, for his guidance in endeavoring to reopen the negotiation for the West India trade.

2. Making a breach of friendship between the first and second officers of the government—President Jackson and Vice-President Calhoun—for the purpose of thwarting the latter, and helping himself to the Presidency.

3. Breaking up the cabinet for the same purpose.

4. Introducing the system of "proscription" (removal from office for opinion's sake), for the same purpose.

A formal motion was made by Mr. Holmes, of Maine, to raise a committee with power to send for persons and papers, administer oaths, receive sworn testimony, and report it, with the committee's opinion, to the Senate; but this looked so much like preferring an impeachment, as well as trying it, that the procedure was dropped; and all reliance was placed upon the numerous and elaborate speeches to be delivered, all carefully prepared, and intended for publication, though delivered in secret session. Rejection of the nomination was not enough—a killing off in the public mind was intended; and therefore the unusual process of the elaborate preparation and intended publication of the speeches. All the speakers went through an excusatory formula, repeated with equal precision and gravity; abjuring all sinister motives; declaring themselves to be wholly governed by a sense of public duty; describing the pain which they felt at arraigning a gentleman whose manners and deportment were so urbane; and protesting that nothing but a sense of duty to the country could force them to the reluctant performance of such a painful task. The accomplished Forsyth complimented, in a way to be perfectly understood, this excess of patriotism, which could voluntarily inflict so much self-distress for the sake of the public good; and I, most unwittingly, brought the misery of one of the gentlemen to a sudden and ridiculous conclusion by a chance remark. It was Mr. Gabriel Moore, of Alabama, who sat near me, and to whom I said, when the vote was declared, "You have broken a minister, and elected a Vice-President." He asked how? and I told him the people would see nothing in it but a combination of rivals against a competitor, and would pull them all down, and set him up. "Good God!" said he, "why didn't you tell me that before I voted, and I would have voted the other way." It was only twenty minutes before, for he was the very last speaker, that Mr. Moore had delivered himself thus, on this very interesting point of public duty against private feeling:

"Under all the circumstances of the case, notwithstanding the able views which have been presented, and the impatience of the Senate, I feel it a duty incumbent upon me, not only in justification of myself, and of the motives which govern me in the vote which I am about to give, but, also, in justice to the free and independent people whom I have the honor in part to represent, that I should set forth the reasons which have reluctantly compelled me to oppose the confirmation of the present nominee. Sir, it is proper that I should declare that the evidence adduced against the character and conduct of the late Secretary of State, and the sources from which this evidence emanates, have made an impression on my mind that will require of me, in the conscientious though painful discharge of my duty, to record my vote against his nomination."

The famous Madame Roland, when mounting the scaffold, apostrophized the mock statue upon it with this exclamation: "Oh Liberty! how many crimes are committed in thy name!" After what I have seen during my thirty years of inside and outside views in the Congress of the United States, I feel qualified to paraphrase the apostrophe, and exclaim: "Oh Politics! how much bamboozling is practised in thy game!"

The speakers against the nomination were Messrs. Clay, Webster, John M. Clayton, Ewing of Ohio, John Holmes, Frelinghuysen, Poindexter, Chambers of Maryland, Foot of Connecticut, Governor Miller, and Colonel Hayne of South Carolina, and Governor Moore of Alabama—just a dozen, and equal to a full jury. Mr. Calhoun, as Vice-President, presiding in the Senate, could not speak; but he was understood to be personated by his friends, and twice gave the casting vote, one interlocutory, against the nominee—a tie being contrived for that purpose, and the combined plan requiring him to be upon the

record. Only four spoke on the side of the nomination; General Smith of Maryland, Mr. Forsyth, Mr. Bedford Brown, and Mr. Marcy. Messrs. Clay and Webster, and their friends, chiefly confined themselves to the instructions on the West India trade; the friends of Mr. Calhoun paid most attention to the cabinet rupture, the separation of old friends, and the system of proscription. Against the instructions it was alleged, that they begged as a favor what was due as a right; that they took the side of Great Britain against our own country; and carried our party contests, and the issue of our party elections, into diplomatic negotiations with foreign countries; and the following clause from the instructions to Mr. McLane was quoted to sustain these allegations:

"In reviewing the causes which have preceded and more or less contributed to a result so much regretted, there will be found three grounds upon which we are most assailable: 1. In our too long and too tenaciously resisting the right of Great Britain to impose protecting duties in her colonies. 2. In not relieving her vessels from the restriction of returning direct from the United States to the colonies after permission had been given by Great Britain to our vessels to clear out from the colonies to any other than a British port. And, 3. In omitting to accept the terms offered by the act of Parliament of July, 1825, after the subject had been brought before Congress and deliberately acted upon by our government. It is, without doubt, to the combined operation of these (three) causes that we are to attribute the British interdict; you will therefore see the propriety of possessing yourself fully of all the explanatory and mitigating circumstances connected with them, that you may be able to obviate, as far as practicable, the unfavorable impression which they have produced."

This was the clause relied upon to sustain the allegation of putting his own country in the wrong, and taking the part of Great Britain, and truckling to her to obtain as a favor what was due as a right, and mixing up our party contests with our foreign negotiations. The fallacy of all these allegations was well shown in the replies of the four senators, and especially by General Smith, of Maryland; and has been further shown in the course of this work, in the chapter on the recovery of the British West India trade. But there was a document at that time in the Department of State, unknown to the friends of Mr. Van Buren in the Senate, which would not only have exculpated him, but turned the attacks of his assailants against themselves. The facts were these: Mr. Gallatin, while minister at London, on the subject of this trade, of course sent home dispatches, addressed to the Secretary of State (Mr. Clay), in which he gave an account of his progress, or rather of the obstacles which prevented any progress, in the attempted negotiation. There were two of these dispatches, one dated September 22, 1826, the other November the 14th, 1827. The latter had been communicated to Congress in full, and printed among the papers of the case; of the former only an extract had been communicated, and that relating to a mere formal point. It so happened that the part of this dispatch of September, 1826, not communicated, contained Mr. Gallatin's report of the causes which led to the refusal of the British to treat—their refusal to permit us to accept the terms of their act of 1825, after the year limited for acceptance had expired—and which led to the order in council, cutting us off from the trade; and it so happened that this report of these causes, so made by Mr. Gallatin, was the original from which Mr. Van Buren copied his instructions to Mr. McLane! and which were the subject of so much censure in the Senate. I have been permitted by Mr. Everett, Secretary of State under President Fillmore—(Mr. Webster would have given me the same permission if I had applied during his time, for he did so in every case that I ever asked)—to examine this dispatch in the Department of State, and to copy from it whatever I wanted; I accordingly copied the following:

"On three points we were perhaps vulnerable.

"1. The delay of renewing the negotiation.

"2. The omission of having revoked the restriction on the indirect intercourse when that of Great Britain had ceased.

"3. Too long an adherence to the opposition to her right of laying protecting duties. This might have been given up as soon as the act of 1825 passed. These are the causes assigned for the late measure adopted towards the United States on that subject; and they have, undoubtedly, had a decisive effect as far as relates to the order in council, assisted as they were by the belief that our object was to compel this country to regulate the trade upon our own terms."

This was a passage in the unpublished part of that dispatch, and it shows itself to be the original from which Mr. Van Buren copied, substituting the milder term of 'assailable" where

Mr. Gallatin had applied that of "vulnerable" to Mr. Adams's administration. Doubtless the contents of that dispatch, in this particular, were entirely forgotten by Mr. Clay at the time he spoke against Mr. Van Buren, having been received by him above four years before that time. They were probably as little known to the rest of the opposition senators as to ourselves; and the omission to communicate and print them could not have occurred from any design to suppress what was material to the debate in the Senate, as the communication and printing had taken place long before this occasion of using the document had occurred.

The way I came to the knowledge of this omitted paragraph was this: When engaged upon the chapter of his rejection, I wrote to Mr. Van Buren for his view of the case; and he sent me back a manuscript copy of a speech which he had drawn up in London, to be delivered in New-York, at some "public dinner," which his friends could get up for the occasion; but which he never delivered, or published, partly from an indisposition to go into the newspapers for character—much from a real forbearance of temper—and possibly from seeing, on his return to the United States, that he was not at all hurt by his fall. That manuscript speech contained this omitted extract, and I trust that I have used it fairly and beneficially for the right, and without invidiousness to the wrong. It disposes of one point of attack; but the gentlemen were wrong in their whole broad view of this British West India trade question. Jackson took the Washington ground, and he and Washington were both right. The enjoyment of colonial trade is a privilege to be solicited, and not a right to be demanded; and the terms of the enjoyment are questions for the mother country. The assailing senators were wrong again in making the instructions a matter of attack upon Mr. Van Buren. They were not his instructions, but President Jackson's. By the constitution they were the President's, and the senators derogated from that instrument in treating his secretary as their author. The President alone is the conductor of our foreign relations, and the dispatches signed by the Secretaries of State only have force as coming from him, and are usually authenticated by the formula, "*I am instructed by the President to say*," &c., &c. It was a constitutional blunder, then, in the senators to treat Mr. Van Buren as the author of these instructions; it was also an error in point of fact. General Jackson himself specially directed them; and so authorized General Smith to declare in the Senate—which he did.

Breaking up the cabinet, and making dissension between General Jackson and Mr. Calhoun, was the second of the allegations against Mr. Van Buren. Repulsed as this accusation has been by the character of Mr. Van Buren, and by the narrative of the "Exposition," it has yet to receive a further and most authoritative contradiction, from a source which admits of no cavil—from General Jackson himself—in a voluntary declaration made after that event had passed away, and when justice alone remained the sole object to be accomplished. It was a statement addressed to "Martin Van Buren, President of the United States," dated at the Hermitage, July 31st, 1840, and ran in these words:

"It was my intention as soon as I heard that Mr. Calhoun had expressed his approbation of the leading measures of your administration, and had paid you a visit, to place in your possession the statement which I shall now make; but bad health, and the pressure of other business have constantly led me to postpone it. What I have reference to is the imputation that has been sometimes thrown upon you, that you had an agency in producing the controversy which took place between Mr. Calhoun and myself, in consequence of Mr. Crawford's disclosure of what occurred in the cabinet of Mr. Monroe relative to my military operations in Florida during his administration. Mr. Calhoun is doubtless already satisfied that he did you injustice in holding you in the slightest degree responsible for the course I pursued on that occasion: but as there may be others who may still be disposed to do you injustice, and who may hereafter use the circumstance for the purpose of impairing both your character and his, I think it my duty to place in your possession the followiug emphatic declaration, viz.: *That I am not aware of your ever saying a word to me relative to Mr. Calhoun, which had a tendency to create an interruption of my friendly relations with him:—that you were not consulted in any stage of the correspondence on the subject of his conduct in the cabinet of Mr. Monroe;—and that, after this correspondence became public, the only sentiment you ever expressed to me about it was that of deep regret that it should have occurred.* You are at liberty to show this letter to Mr. Calhoun and make what other use of it you may think

proper for the purpose of correcting the erroneous impressions which have prevailed on this subject."

A testimony more honorable than this in behalf of a public man, was never delivered, nor one more completely disproving a dishonorable imputation, and showing that praise was due where censure had been lavished. Mr. Van Buren was not the cause of breaking up the cabinet, or of making dissension between old friends, or of raking up the buried event in Mr. Monroe's cabinet, or of injuring Mr. Calhoun in any way. Yet this testimony, so honorable to him, was never given to the public, though furnished for the purpose, and now appears for the first time in print.

Equally erroneous was the assumption, taken for granted throughout the debate, and so extensively and deeply impressed upon the public mind, that Mr. Calhoun was the uniform friend of General Jackson in the election—his early supporter in the canvass, and steadfast adherent to the end. This assumption has been rebutted by Mr. Calhoun himself, who, in his pamphlet against General Jackson, shows that he was for *himself* until withdrawn from the contest by Mr. Dallas at a public meeting, in Philadelphia, in the winter of 1823—4; and after that was *perfectly neutral*. His words are: "*When my name was withdrawn from the list of presidential candidates, I assumed a perfectly neutral position between Gen. Jackson and Mr. Adams.*" This clears Mr. Van Buren again, as he could not make a breach of friendship where none existed, or supplant a supporter where there was no support: and that there was none from Mr. Calhoun to Gen. Jackson, is now authentically declared by Mr. Calhoun himself. Yet this head of accusation, with a bad motive assigned for it, was most perseveringly urged by his friends, and in his presence, throughout the whole debate.

Introducing the "New-York system of proscription" into the federal government, was the last of the accusations on which Mr. Van Buren was arraigned; and was just as unfounded as all the rest. Both his temper and his judgment was against the removal of faithful officers because of difference of political opinion, or even for political conduct against himself—as the whole tenor of his conduct very soon after, and when he became President of the United States, abundantly showed. The departments at Washington, and some part of every State in the Union, gave proofs of his forbearance in this particular.

I have already told that I did not speak in the debate on the nomination of Mr. Van Buren; and this silence on such an occasion may require explanation from a man who does not desire the character of neglecting a friend in a pinch. I had strong reasons for that abstinence, and they were obliged to be strong to produce it. I was opposed to Mr. Van Buren's going to England as minister. He was our intended candidate for the Presidency, and I deemed such a mission to be prejudicial to him and the party, and apt to leave us with a candidate weakened with the people by absence, and by a residence at a foreign court. I was in this state of mind when I saw the combination formed against him, and felt that the success of it would be his and our salvation. Rejection was a bitter medicine, but there was health at the bottom of the draught. Besides, I was not the guardian of Messrs. Clay, Webster, and Calhoun, and was quite willing to see them fall into the pit which they were digging for another. I said nothing in the debate; but as soon as the vote was over I wrote to Mr. Van Buren a very plain letter, only intended for himself, and of which I kept no copy; but having applied for the original for use in this history, he returned it to me, on the condition that I should tell, if I used it, that in a letter to General Jackson, he characterized it as "honest and sensible." Honest, I knew it to be at the time; sensible, I believe the event has proved it to be; and that there was no mistake in writing such a letter to Mr. Van Buren, has been proved by our subsequent intercourse. It was dated January 28, 1832, and I subjoin it in full, as contemporaneous testimony, and as an evidence of the independent manner in which I spoke to my friends—even those I was endeavoring to make President. It ran thus:

"Your faithful correspondents will have informed you of the event of the 25th. Nobody would believe it here until after it happened, but the President can bear me witness that I prepared him to expect it a month ago. The public will only understand it as a political movement against a rival; it is right, however, that you should know that without an auxiliary cause the political movement against you would not have succeeded. There were gentlemen voting

against you who would not have done so except for a reason which was strong and clear in their own minds, and which (it would be improper to dissemble) has hurt you in the estimation of many candid and disinterested people. After saying this much, I must also say, that I look upon this head of objection as temporary, dying out of itself, and to be swallowed up in the current and accumulating topics of the day. You doubtless know what is best for yourself, and it does not become me to make suggestions; but for myself, when I find myself on the bridge of Lodi, I neither stop to parley, nor turn back to start again. Forward, is the word. Some say, make you governor of New-York; I say, you have been governor before: that is turning back. Some say, come to the Senate in place of some of your friends; I say, that of itself will be only parleying with the enemy while on the middle of the bridge, and receiving their fire. The vice-presidency is the only thing, and if a place in the Senate can be coupled with the trial for that, then a place in the Senate might be desirable. The Baltimore Convention will meet in the month of May, and I presume it will be in the discretion of your immediate friends in New-York, and your leading friends here, to have you nominated; and in all that affair I think you ought to be passive. 'For Vice-President,' on the Jackson ticket, will identify you with him; a few cardinal principles of the old democratic school might make you worth contending for on your own account. The dynasty of '98 (the federalists) has the Bank of the United States in its interest; and the Bank of the United States has drawn into its vortex, and wields at its pleasure, the whole high tariff and federal internal improvement party. To set up for yourself, and to raise an interest which can unite the scattered elements of a nation, you will have to take positions which are visible, and represent principles which are felt and understood; you will have to separate yourself from the enemy by partition lines which the people can see. The dynasty of '98 (federalists), the Bank of the United States, the high tariff party, the federal internal improvement party, are against you. Now, if you are not against them, the people, and myself, as one of the people, can see nothing between you and them worth contending for, in a national point of view. This is a very plain letter, and if you don't like it, you will throw it in the fire; consider it as not having been written. For myself, I mean to retire upon my profession, while I have mind and body to pursue it; but I wish to see the right principles prevail, and friends instead of foes in power."

The prominent idea in this letter was, that the people would see the rejection in the same light that I did—as a combination to put down a rival—as a political blunder—and that it would work out the other way. The same idea prevailed in England. On the evening of the day, on the morning of which all the London newspapers heralded the rejection of the American minister, there was a great party at Prince Talleyrand's—then the representative at the British court, of the new King of the French, Louis Phillippe. Mr. Van Buren, always master of himself, and of all the proprieties of his position, was there, as if nothing had happened; and received distinguished attentions, and complimentary allusions. Lord Aukland, grandson to the Mr. Eden who was one of the Commissioners of Conciliation sent to us at the beginning of the revolutionary troubles, said to him, "It is an advantage to a public man to be the subject of an outrage"—a remark, wise in itself, and prophetic in its application to the person to whom it was addressed. He came home—apparently gave himself no trouble about what had happened—was taken up by the people—elected, successively, Vice-President and President—while none of those combined against him ever attained either position.

There was, at the time, some doubt among their friends as to the policy of the rejection, but the three chiefs were positive in their belief that a senatorial condemnation would be political death. I heard Mr. Calhoun say to one of his doubting friends, "It will kill him, sir, kill him dead. He will never kick sir, never kick;" and the alacrity with which he gave the casting votes, on the two occasions, both vital, on which they were put into his hands, attested the sincerity of his belief, and his readiness for the work. How those tie-votes, for there were two of them, came to happen twice, "hand-running," and in a case so important, was matter of marvel and speculation to the public on the outside of the locked-up senatorial door. It was no marvel to those on the inside, who saw how it was done. The combination had a superfluity of votes, and, as Mr. Van Buren's friends were every one known, and would sit fast, it only required the superfluous votes on one side to go out; and thus an equilibrium between the two lines was established. When all was finished, the injunction of secrecy was taken off the proceedings, and the dozen set speeches delivered in secret session immediately published—which shows that they were delivered for effect, not upon the Senate, but upon the public mind. The whole proceeding illustrates the impolicy,

as well as peril to themselves, of rival public men sitting in judgment upon each other, and carries a warning along with it which should not be lost.

As an event affecting the most eminent public men of the day, and connecting itself with the settlement of one of our important foreign commercial questions—as belonging to history, and already carried into it by the senatorial debates—as a key to unlock the meaning of other conduct—I deem this account of the REJECTION of Mr. Van Buren a necessary appendage to the settlement of the British West India trade question—as an act of justice to General Jackson's administration (the whole of which was involved in the censure then cast upon his Secretary of State), and as a sunbeam to illuminate the labyrinth of other less palpable concatenations.

CHAPTER LX.

BANK OF THE UNITED STATES—ILLEGAL AND VICIOUS CURRENCY.

IN his first annual message, in the year 1829, President Jackson, besides calling in question the unconstitutionality and general expediency of the Bank, also stated that it had failed in furnishing a uniform currency. That declaration was greatly contested by the Bank and its advocates, and I felt myself bound to make an occasion to show it to be well founded, and to a greater extent than the President had intimated. It had in fact issued an illegal and vicious kind of paper—authorized it to be issued at all the branches—in the shape of drafts or orders payable in Philadelphia, but voluntarily paid where issued, and at all the branches; and so made into a local currency, and constituting the mass of all its paper seen in circulation; and as the greatest quantity was usually issued at the most remote and inaccessible branches, the payment of the drafts were well protected by distance and difficulty; and being of small denominations, loitered and lingered in the hands of the laboring people until the "wear and tear" became a large item of gain to the Bank, and the difficulty of presenting them at Philadelphia an effectual bar to their payment there. The origin of this kind of currency was thus traced by me: It was invented hy a Scotch banker of Aberdeen, who issued notes payable in London, always of small denominations, that nobody should take them up to London for redemption. The Bank of Ireland seeing what a pretty way it was to issue notes which they could not practically be compelled to pay, adopted the same trick. Then the English country bankers followed the example. But their career was short. The British parliament took hold of the fraud, and suppressed it in the three kingdoms. That parliament would tolerate no currency issued at one place, and payable at another.

The mode of proceeding to get at the question of this vicious currency was the same as that pursued to get at the question of the non-renewal of the charter—namely, an application for leave to bring in a joint resolution declaring it to be illegal, and ordering it to be suppressed; and in asking that leave to give the reasons for the motion: which was done, in a speech of which the following are some parts:

"Mr. Benton rose to ask leave to bring in his promised resolution on the state of the currency. He said he had given his notice for the leave he was about to ask, without concerting or consulting with any member of the Senate. The object of his resolution was judicial, not political; and he had treated the senators not as counsellors, but as judges. He had conversed with no one, neither friend nor adversary; not through contempt of counsel, or fear of opposition, but from a just and rigorous regard to decorum and propriety. His own opinion had been made up through the cold, unadulterated process of legal research; and he had done nothing, and would do nothing, to prevent, or hinder, any other senator from making up his opinion in the same way. It was a case in which politics, especially partisan politics, could find no place; and in the progress of which every senator would feel himself retiring into the judicial office—becoming one of the *judices selecti*—and searching into the stores of his own legal knowledge, for the judgment, and the reasons of the judgment, which he must give in this great cause, in which a nation is the party on one side, and a great moneyed corporation on the other. He [Mr. B.] believed the currency, against which his resolution was directed, to be illegal and dangerous; and so believing, it had long been his determination to bring the question of its legality before the Senate and the people; and that without regard to the powerful resentment, to the effects of which he might be exposing himself. He had adopted the form of a declaratory resolution, because it was intended to declare the true sense of the charter upon a disputed point. He made his resolution joint in its character, that it might

have the action of both Houses of Congress; and single in its object, that the main design might not be embarrassed with minor propositions. The form of the resolution gave him a right to state his reasons for asking leave to bring it in; the importance of it required those reasons to be clearly stated. The Senate, also, has its rights and its duties. It is the right of the Senate and House of Representatives, as the founder of the bank corporation, to examine into the regularity of its proceedings, and to take cognizance of the infractions of its charter; and this right has become a duty, since the very tribunal selected by the charter to try these infractions had tried this very question, and that without the formality of a *scire facias* or the presence of the adverse party, and had given judgment in favor of the corporation; a decision which he [Mr. B.] was compelled, by the strongest convictions of his judgment, to consider both as extrajudicial and erroneous.

"The resolution, continued Mr. B., which I am asking leave to bring in, expresses its own object. It declares against the legality of these orders, AS A CURRENCY. It is the currency which I arraign. I make no inquiry, for I will not embarrass my subject with irrelevant and immaterial inquiries—I make no inquiry into the modes of contract and payment which are permitted, or not permitted, to the Bank of the United States, in the conduct of its private dealings and individual transactions. My business lies with the currency; for, between public currency and private dealings, the charter of the bank has made a distinction, and that founded in the nature of things, as broad as lines can draw, and as clear as words can express. The currency concerns the public; and the soundness of that currency is taken under the particular guardianship of the charter; a special code of law is enacted for it: private dealings concern individuals: and it is for individuals, in making their bargains, to take care of their own interests. The charter of the Bank of the United States has authorized, but not regulated, certain private dealings of the bank; it is full and explicit upon the regulation of currency. Upon this distinction I take my stand. I establish myself upon the broad and clear distinction which reason makes, and the charter sanctions. I arraign the currency! I eschew all inquiry into the modes of making bargains for the sale or purchase of bills of exchange, buying and selling gold or silver bullion, building houses, hiring officers, clerks, and servants, purchasing necessaries, or laying in supplies of fuel and stationery.

"1. I object to it because it authorizes an issue *of currency upon construction.* The issue of currency, sir, was the great and main business for which the bank was created, and which it is, in the twelfth article, expressly authorized to perform, and I cannot pay so poor a compliment to the understandings of the eminent men who framed that charter, as to suppose that they left the main business of the bank to be found, by construction, in an independent phrase, and that phrase to be found but once in the whole charter. I cannot compliment their understandings with the supposition that, after having authorized and defined a currency, and subjected it to numerous restrictions, they had left open the door to the issue of another sort of currency, upon construction, which should supersede the kind they had prescribed, and be free from every restriction to which the prescribed currency was subject.

"Let us recapitulate. Let us sum up the points of incompatibility between the characteristics of this currency, and the requisites of the charter: let us group and contrast the frightful features of their flagrant illegality. 1. Are they signed by the president of the bank and his principal cashier? They are not! 2. Are they under the corporate seal? Not at all! 3. Are they drawn in the name of the corporation? By no means! 4. Are they subject to the double limitation of time and amount in case of credit? They are not; they may exceed sixty days' time, and be less than one hundred dollars! 5. Are they limited to the minimum size of five dollars? Not at all! 6. Are they subject to the supervision of the Secretary of the Treasury? Not in the least! 7. The prohibition against suspending specie payments? They are not subject to it! 8. The penalty of double interest for delayed payment? Not subject to it! 9. Are they payable where issued? Not at all, neither by their own terms, nor by any law applicable to them! 10. Are they payable at other branches? So far from it, that they were invented to avoid such payment! 11. Are they transferable by delivery? No; by indorsement! 12. Are they receivable in payment of public dues? So far from it, that they are twice excluded from such payments by positive enactments! 13. Are the directors liable for excessive issues? Not at all! 14. Has the holder a right to sue at the branch which issues the order? No, sir, he has a right to go to Philadelphia, and sue the directors there! a right about equivalent to the privilege of going to Mecca to sue the successors of Mahomet for the bones of the prophet! Fourteen points of contrariety and difference. Not a feature of the charter in the faces of these orders. Every mark a contrast; every lineament a contradiction; all announcing, or rather denouncing, to the world, the positive fact of a spurious progeny; the incontestable evidence of an illegitimate and bastard issue.

"I have now, Mr. President, brought this branch bank currency to the test of several provisions in the charter, not all of them, but a few which are vital and decisive. The currency fails at every test; and upon this failure I predicate an argument of its total illegality. Thus far I have spoken upon the charter, and have proved that if this currency can prevail, that instrument, with all its restrictions and limitations, its jealous, prohibitory constitution, and multiplied enactments for the safety of the public, is nothing but a blank piece of paper in the hands

of the bank. I will now have recourse to another class of arguments—a class extrinsic to the charter, but close to the subject—indispensable to fair examination, and directly bearing upon the illegal character of this currency.

"1. In the first place, I must insist that these orders cannot possibly serve for currency, because they are subject to the law of indorsable paper. The law which governs all such paper is too universally known to be enlarged upon here. Presentation for acceptance and payment, notice of default in either, prompt return of the dishonored paper; and all this with rigorous punctuality, and a loss of recourse for the slightest delay at any point, are the leading features of this law. Now it is too obvious that no paper subject to the law of indorsement can answer the purposes of circulation. It will die on the hands of the holders while passing from one to another, instead of going to the place of payment. Now it is incontestable that these orders are instruments negotiable by indorsement, and by indorsement alone. Whether issued under the charter, or under the general laws of the land, they are still subject to the law of indorsable paper. They are the same in either case as if drawn by one citizen upon another. And this is a point which I mean to make clear: for many worthy people believe there is some peculiar law for bank paper, which takes it out of the operation of the general laws of the land. Not so the fact. The twelfth fundamental article of the bank constitution declares that the bills or notes to be issued by the bank shall be negotiable in the same manner as if issued by a *private person;* that is to say, those payable to a named person or his *order*, by *indorsement*, in like manner and with the *like effect* as foreign bills of exchange; and those made payable to *bearer* shall be negotiable by *delivery* alone; in the same manner, we may add, as a silver dollar. So much for these orders, if drawn under the charter; if not drawn under it, they are then issued under the general law of the land, or without any law at all. Taken either under the charter or out of it, it comes to the same point, namely, that these orders are subject to the same law as if drawn by one private person upon another. This is enough to fix their character, and to condemn them as a circulating medium; it is enough for the people to know; for every citizen knows enough of law to estimate the legal value of an *unaccepted order*, drawn upon a man five hundred or one thousand miles off! But it has the word *bearer* on the back! Yes, sir, and why not on the face as easily as on the back? Our school-time acquaintance, Mr. President, the gentleman from Cork, with his coat buttoned behind, had a sensible, and, I will add, a lawful reason for arraying himself in that grotesque habiliment; but what reason can the bank have for putting bearer on the back of the order, where it has no effect upon its negotiable character, and omitting it on the face, where it would have governed the character, and secured to the holder all the facilities for the prompt and easy recovery of the contents of a paper transferable by mere delivery? The only effect of this preposterous or cunning indorsement must be to bamboozle the ignorant—pardon the low word, sir—to bamboozle the ignorant with the belief that they are handling a currency which may at any time be collected without proof, trouble, or delay; while in reality it is a currency which reserves to the bank all the legal defences which can be set up to prevent the recovery of a parcel of old, unaccepted, unpresented, unauthorized bills of exchange.

"2. I take a second exception to these orders as a currency. It is this, that being once paid, they are done with. A note transferable by delivery, may be reissued, and its payment demanded again, and so on for ever. But a bill of exchange, or any paper subject to the same law with a bill of exchange, is incapable of reissue, and is payable but once. The payment once made, extinguishes the debt; the paper which evidenced it is dead in law, and cannot be resuscitated by any act of the parties. That payment can be plead in bar to any future action. This law applies to checks and orders as well as to bills of exchange; it applies to bank checks and orders as well as to those of private persons, and this allegation alone would annihilate every pretension of these branch bank orders to the character of currency.

"The bank went into operation with the beginning of the year 1817; established eighteen branches, half a dozen of which in the South and West; issued its own notes freely, and made large issues of notes payable at all these branches. The course of trade carried the branch notes of the South and West to the Northeast; and nothing in the course of trade brought them back to the West. They were payable in all demands to the federal government; merchants in Philadelphia, New-York, and Boston received them in payment of goods, and gave them—not back again in payment of Southern and Western produce—but to the collectors of the customs. Become the money of the government, the bank had to treat them as cash. The fourteenth section of the charter made them receivable in all payments to the government, and another clause required the bank to transfer the moneys of the government to any point ordered; these two clauses (the transfer clause being harmless without the receiving one contained in the fourteenth section) laid the bank under the obligation to cash all the notes of all the branches wherever presented; for, if she did not do it, she would be ordered to transfer the notes to the place where they were payable, and then to transfer the silver to the place where it was wanted; and both these operations she had to perform at her own expense. The Southern and Western branch notes flowed to the Northeast; the gold and silver of the South and West were ordered to follow them; and, in a little while, the specie

of the South and West was transferred to the Northeast; but the notes went faster on horses and in mail stages than the silver could go in wagons; and the parent bank in Philadelphia, and the branches in New-York and Boston, exhausted by the double operation of providing for their own, and for Southern and Western branch notes besides, were on the point of stopping payment at the end of two years. Mr. Cheves then came into the presidency; he stopped the issue of Southern and Western branch paper, and saved the bank from insolvency! Application was then made to Congress to repeal the fourteenth section of the charter, and thus relieve the bank from this obligation to cash its notes every where. *Congress refused to do so.* Application was made at the same time to repeal a part of the twelfth fundamental article of the constitution of the bank, for the purpose of relieving the president and principal cashier of the parent bank from the labor of signing the five and ten dollar notes. *Congress refused that application also.* And here every thing rested while Mr. Cheves continued president. The Southern and Western branches ceased to do business *as banks;* no bank notes or bills were seen but those bearing the signatures of the president and his principal cashier, and none of these payable at Southern and Western branches. The profits of the stockholders became inconsiderable, and the prospect of a renewed charter was lost in the actual view of the inactivity and uselessness of the bank in the South and West. Mr. Cheves retired. He withdrew from an institution he had saved from bankruptcy, but which he could not render useful to the South and West; and then ensued a set of operations for enabling the bank to do the things which Congress had refused to do for it; that is to say, to avoid the operation of the fourteenth section, and so much of the twelfth fundamental article as related to the signature of the notes and bills of the bank. These operations resulted in the invention of the *branch bank orders.* These orders, now flooding the country, circulating as notes, and considered every where as gold and silver (because they are *voluntarily* cashed at several branches, and *erroneously* received at every land office and custom-house), have given to the bank its present apparent prosperity, its temporary popularity, and its delusive cry of a sound and uniform currency. This is my narrative; an appalling one, it must be admitted; but let it stand for nothing if not sustained by the proof.

"I have now established, Mr. President, as I trust and believe, the truth of the first branch of my proposition, namely, that this currency of branch bank orders is unauthorized by the charter, and illegal. I will now say a few words in support of the second branch of the proposition, namely, that this currency ought to be suppressed.

"The mere fact of the illegality, sir, I should hold to be sufficient to justify this suppression. In a country of laws, the laws should be obeyed. No private individual should be allowed to trample them under foot; much less a public man, or public body; least of all, a great moneyed corporation wielding above one hundred millions of dollars per annum, and boldly contending with the federal government for the sceptre of political power—*money is power!* The Bank of the United States possesses more money than the federal government; and the question of power is now to be decided between them. That question is wrapped up in the case before you. It is a case of clear conviction of a violation of the laws by this great moneyed corporation; and that not of a single statute, and by inadvertence, and in a small matter, which concerns but few, but in one general, sweeping, studied, and systematic infraction of a whole code of laws—of an entire constitution, made for its sole government and restraint—and the pernicious effects of which enter into the revenues of the Union, and extend themselves to every moneyed transaction between man and man. This is the case of violated law which stands before you; and if it goes unpunished, then do I say, the question of political power is decided between the bank and the government. The question of supremacy is at an end. Let there be no more talk of restrictions or limitation in the charter. Grant a new one. Grant it upon the spot. Grant it without words! Grant it in blank! to save the directors from the labor of re-examination! the court from the labor of constructions! and yourselves from the radation of being publicly trampled under foot.

"I do insist, Mr. President, that this currency ought to be suppressed for illegality alone, even if no pernicious consequences could result from its circulation. But pernicious consequences do result. The substituted currency is not the equivalent of the branch bank notes, whose place it has usurped: it is inferior to those notes in vital particulars, and to the manifest danger and loss of the people.

"In the first place, these branch bank orders are *not payable in the States in which they are issued.* Look at them! they are nominally payable in Philadelphia! Look at the law! It gives the holder no right to demand their contents at the branch bank, until the order has been to Philadelphia, and returned. I lay no stress upon the insidious circumstance that these orders are now paid at the branch where issued, and at other branches. That voluntary, delusive payment may satisfy those who are willing to swallow a gilded hook; it may satisfy those who are willing to hold their property at the will of the bank. For my part, I want law for my rights. I look at the law, to the legal rights of the holder, and say that he has no right to demand payment at the branch which issued the order. The present custom of paying is voluntary, not compulsory; it depends upon the will of the bank, not upon law; and none

but tyrants can require, or slaves submit to, a tenure at will. These orders, even admitting them to be legal, are only payable in Philadelphia; and to demand payment there, is a delusive and *impracticable right*. For the body of the citizens cannot go to Philadelphia to get the change for the small orders; merchants will not remit them; they would as soon carry up the fires of hell to Philadelphia; for the bank would consign them to ruin if they did. These orders are for the frontiers; and it is made the interest and the policy of merchants to leave them at home, and take a bill of exchange at a nominal premium. Brokers alone will ever carry them, and that as their own, after buying them out of the hands of the people at a discount fixed by themselves.

"This contrivance, Mr. President, of issuing bank paper at one place, payable at another and a distant place, is not a new thing under the sun; but its success, if it succeeds here, will be a new thing in the history of banking. This contrivance, sir, is of European origin. It began in Scotland some years ago, with a banker in *Aberdeen*, who issued promissory notes payable in *London*. Then the Bank of Ireland set her branches in *Sligo*, *Cork*, and *Belfast*, at the same work; and they made their branch notes payable in *Dublin*. The English country bankers took the hint, and put out their notes payable in *London*. The mass of these notes were of the smaller denominations, one or two pounds sterling, corresponding with our five and ten dollar orders; such as were handled by the laboring classes, and who could never carry them to *London* and *Dublin* to demand their contents. At this point the British Imperial Parliament took cognizance of the matter; treated the issue of such notes as a vicious practice, violative of the very first idea of a sound currency, and particularly dangerous to the laboring classes. The parliament suppressed the practice. This all happened in the year 1826; and now this practice, thus suppressed in *England*, *Scotland*, and *Ireland*, is in full operation in our *America!* and the directors of the Bank of the United States are celebrated, as the greatest of financiers, for picking up an illegal practice of Scottish origin, and putting it into operation in the United States, and that, too, in the very year in which it was suppressed in Great Britain!"

Leave was not given to introduce the joint resolution. The friends of the bank being a majority in the Senate, refused the motion, but felt themselves bound to make defence for a currency so illegal and vicious. Further discussion was stopped for that time; but afterwards, on the question of the recharter, the illegality of this kind of currency was fully established, and a clause put into the new charter to suppress it. The veto message put an end to the charter, and for the necessity of the remedy in that quarter; but the practice has been taken up by local institutions and private bankers in the States, and become an abuse which requires extirpation.

CHAPTER LXI.

ERROR OF MONS. DE TOCQUEVILLE IN RELATION TO THE BANK OF THE UNITED STATES, THE PRESIDENT, AND THE PEOPLE.

The first message of President Jackson, delivered at the commencement of the session of 1829–30, confirmed the hopes which the democracy had placed in him. It was a message of the Jeffersonian school, and re-established the land-marks of party, as parties were when founded on principle. Its salient point was the Bank of the United States, and the non-renewal of its charter. He was opposed to the renewal, both on grounds of constitutionality and expediency; and took this early opportunity of so declaring, both for the information of the people, and of the institution, that each might know what they had to rely upon with respect to him. He said:

"The charter of the Bank of the United States expires in 1836, and its stockholders will probably apply for a renewal of their privileges. In order to avoid the evils resulting from precipitancy in a measure involving such important principles, and such deep pecuniary interests, I feel that I cannot, in justice to the parties interested, too soon present it to the deliberate consideration of the legislature and the people. Both the constitutionality and the expediency of the law creating this bank are well questioned by a large portion of our fellow-citizens; and it must be admitted by all that it has failed in the great end of establishing a uniform and sound currency."

This passage was the grand feature of the message, rising above precedent and judicial decisions going back to the constitution and the foundation of party on principle; and risking a contest at the commencement of his administration, which a mere politician would have put off to the last. The Supreme Court had decided in favor of the constitutionality of the institution; a democratic Congress, in chartering a second bank, had yielded the question, both of constitutionality

and expediency. Mr. Madison, in signing the bank charter in 1816, yielded to the authorities without surrendering his convictions. But the effect was the same in behalf of the institution, and against the constitution, and against the integrity of party founded on principle. It threw down the greatest landmark of party, and yielded a power of construction which nullified the limitations of the constitution, and left Congress at liberty to pass any law which it deemed *necessary* to carry into effect any granted power. The whole argument for the bank turned upon the word "necessary" at the end of the enumerated powers granted to Congress; and gave rise to the first great division of parties in Washington's time—the federal party being for the construction which would authorize a national bank; the democratic party (republican, as then called,) being against it.

It was not merely the bank which the democracy opposed, but the latitudinarian construction which would authorize it, and which would enable Congress to substitute its own will in other cases for the words of the constitution, and do what it pleased under the plea of "necessary" —a plea under which they would be left as much to their own will as under the "general welfare" clause. It was the turning point between a strong and splendid government on one side, doing what it pleased, and a plain economical government on the other, limited by a written constitution. The construction was the main point, because it made a gap in the constitution through which Congress could pass any other measures which it deemed to be "necessary:" still there were great objections to the bank itself. Experience had shown such an institution to be a political machine, adverse to free government, mingling in the elections and legislation of the country, corrupting the press; and exerting its influence in the only way known to the moneyed power—by corruption. General Jackson's objections reached both heads of the case —the unconstitutionality of the bank, and its inexpediency. It was a return to the Jeffersonian and Hamiltonian times of the early administration of General Washington, and went to the words of the constitution, and not to the interpretations of its administrators, for its meaning.

Such a message, from such a man—a man not apt to look back when he had set his face forward—electrified the democratic spirit of the country. The old democracy felt as if they were to see the constitution restored before they died —the young, as if they were summoned to the reconstruction of the work of their fathers. It was evident that a great contest was coming on, and the odds entirely against the President. On the one side, the undivided phalanx of the federal party (for they had not then taken the name of whig); a large part of the democratic party, yielding to precedent and judicial decision; the bank itself, with its colossal money power—its arms in every State by means of branches—its power over the State banks—its power over the business community—over public men who should become its debtors or retainers—its organization under a single head, issuing its orders in secret, to be obeyed in all places and by all subordinates at the same moment. Such was the formidable array on one side: on the other side a divided democratic party, disheartened by division, with nothing to rely upon but the goodness of their cause, the *prestige* of Jackson's name, and the presidential power;—good against any thing less than two-thirds of Congress on the final question of the re-charter; but the risk to run of his non-election before the final question came on.

Under such circumstances it required a strong sense of duty in the new President to commence his career by risking such a contest; but he believed the institution to be unconstitutional and dangerous, and that it ought to cease to exist; and there was a clause in the constitution—that constitution which he had sworn to support—which commanded him to recommend to Congress, for its consideration, such measures as he should deem expedient and proper. Under this sense of duty, and under the obligation of this oath, President Jackson had recommended to Congress the non-renewal of the bank charter, and the substitution of a different fiscal agent for the operations of the government—if any such agent was required. And with his accustomed frankness, and the fairness of a man who has nothing but the public good in view, and with a disregard of self which permits no personal consideration to stand in the way of a discharge of a public duty, he made the recommendation six years before the expiration of the charter, and in the first message of his first term; thereby taking upon his hands such an enemy as the Bank of the United States, at the very commencement of his administration.

That such a recommendation against such an institution should bring upon the President and his supporters, violent attacks, both personal and political, with arraignment of motives as well as of reasons, was naturally to be expected; and that expectation was by no means disappointed. Both he and they, during the seven years that the bank contest (in different forms) prevailed, received from it—from the newspaper and periodical press in its interest, and from the public speakers in its favor of every grade—an accumulation of obloquy, and even of accusation, only lavished upon the oppressors and plunderers of nations—a Verres, or a Hastings. This was natural in such an institution. But President Jackson and his friends had a right to expect fair treatment from history—from disinterested history—which should aspire to truth, and which has no right to be ignorant or careless. He and they had a right to expect justice from such history; but this is what they have not received. A writer, whose book takes him out of that class of European travellers who requite the hospitality of Americans by disparagement of their institutions, their country, and their character—one whose general intelligence and candor entitle his errors to the honor of correction—in brief, M. de Tocqueville—writes thus of President Jackson and the Bank of the United States:

"When the President attacked the bank, the country was excited and parties were formed; the well-informed classes rallied round the bank, the common people round the President. But it must not be imagined that the people had formed a rational opinion upon a question which offers so many difficulties to the most experienced statesman. The bank is a great establishment, which enjoys an independent existence, and the people, accustomed to make and unmake whatever it pleases, is startled to meet with this obstacle to its authority. In the midst of the perpetual fluctuation of society, the community is irritated by so permanent an institution, and is led to attack in order to see whether it can be shaken or controlled, like all other institutions of the country."—(Chapter 10.)

Of this paragraph, so derogatory to President Jackson and the people of the United States, every word is an error. Where a fact is alleged, it is an error; where an opinion is expressed, it is an error; where a theory is invented, it is fanciful and visionary. President Jackson did not attack the bank; the bank attacked him, and for political as well as pecuniary motives; and under the lead of politicians. When General Jackson, in his first message, of December, 1829 expressed his opinion to Congress against the renewal of the bank's charter, he attacked no right or interest which the bank possessed. It was an institution of limited existence, enjoying great privileges,—among others a monopoly of national banking, and had no right to any prolongation of existence or privilege after the termination of its charter—so far from it, if there was to be another bank, the doctrine of equal rights and no monopolies or perpetuities required it to be thrown open to the free competition of all the citizens. The reasons given by the President were no attack upon the bank. He impugned neither the integrity nor the skill of the institution, but repeated the objections of the political school to which he belonged, and which were as old as Mr. Jefferson's cabinet opinion to President Washington, in the year 1791, and Mr. Madison's great speech in the House of Representatives in the same year. He, therefore, made no attack upon the bank, either upon its existence, its character, or any one of its rights. On the other hand, the bank did attack President Jackson, under the lead of politicians, and for the purpose of breaking him down. The facts were these: President Jackson had communicated his opinion to Congress in December, 1829, against the renewal of the charter; near three years afterwards, on the 9th of January, 1832, while the charter had yet above three years to run, and a new Congress to be elected before its expiration, and the presidential election impending—(General Jackson and Mr. Clay the candidates)—the memorial of the president and directors of the bank was suddenly presented in the Senate of the United States, for the renewal of its charter.

Now, how came that memorial to be presented at a time so inopportune? so premature, so inevitably mixing itself with the presidential election, and so encroaching upon the rights of the people, in snatching the question out of their hands, and having it decided by a Congress not elected for the purpose—and to the usurpation of the rights of the Congress elected for the purpose? How came all these anomalies? all these violations of right, decency and propriety? They came thus. the bank and its leading anti-Jackson friends believed that the institution

was stronger than the President—that it could beat him in the election—that it could beat him in Congress (as it then stood), and carry the charter,—driving him upon the *veto* power, and rendering him odious if he used it, and disgracing him if (after what he had said) he did not. This was the opinion of the leading politicians friendly to the bank, and inimical to the President. But the bank had a class of friends in Congress also friendly to Gen. Jackson; and between these two classes there was vehement opposition of opinion on the point of moving for the new charter. It was found impossible, in communications between Washington and Philadelphia, then slow and uncertain, in stage coach conveyances, over miry roads and frozen waters, to come to conclusions on the difficult point. Mr. Biddle and the directors were in doubt, for it would not do to move in the matter, unless all the friends of the bank in Congress acted together. In this state of uncertainty, General Cadwallader, of Philadelphia, friend and confidant of Mr. Biddle, and his usual envoy in all the delicate bank negotiations or troubles, was sent to Washington to obtain a result; and the union of both wings of the bank party in favor of the desired movement. He came, and the mode of operation was through the machinery of *caucus*—that contrivance by which a few govern many. The two wings being of different politics, sat separately, one headed by Mr. Clay, the other by Gen. Samuel Smith, of Maryland. The two caucuses disagreed, but the democratic being the smaller, and Mr. Clay's strong will dominating the other, the resolution was taken to proceed, and all bound to go together.

I had a friend in one of these councils who informed me regularly of the progress made, and eventually that the point was carried for the bank—that General Cadwallader had returned with the news, and with injunctions to have the memorial immediately at Washington, and by a given day. The day arrived, but not the memorial, and my friend came to inform me the reason why; which was, that the stage had got overturned in the bad roads and crippled Gen. Cadwallader in the shoulder, and detained him; but that the delay would only be of two days; and then the memorial would certainly arrive. It did so; and on Monday, the 9th of January, 1832, was presented in the Senate by Mr. Dallas, a senator from Pennsylvania, and resident of Philadelphia, where the bank was established. Mr. Dallas was democratic, and the friend of General Jackson, and on presenting the memorial, as good as told all that I have now written, bating only personal particulars. He said:

"That being requested to present this document to the Senate, praying for a renewal of the existing charter of the bank, he begged to be indulged in making a few explanatory remarks. With unhesitating frankness he wished it to be understood by the Senate, by the good commonwealth which it was alike his duty and his pride to represent with fidelity on that floor, and by the people generally, that this application, at this time, had been discouraged by him. Actuated mainly, if not exclusively, by a desire to preserve to the nation the practical benefits of the institution, the expediency of bringing it forward thus early in the term of its incorporation, during a popular representation in Congress which must cease to exist some years before that term expires, and on the eve of all the excitement incident to a great political movement, struck his mind as more than doubtful. He felt deep solicitude and apprehension lest, in the progress of inquiry, and in the development of views, under present circumstances, it might be drawn into real or imaginary conflict with some higher, some more favorite, some more immediate wish or purpose of the American people; and from such a conflict, what sincere friend of this useful establishment would not strive to save or rescue it, by at least a temporary forbearance or delay?"

This was the language of Mr. Dallas, and it was equivalent to a protest from a well-wisher of the bank against the perils and improprieties of its open plunge into the presidential canvass, for the purpose of defeating General Jackson and electing a friend of its own. The prudential counsels of such men as Mr. Dallas did not prevail; political counsels governed; the bank charter was pushed—was carried through both Houses of Congress—dared the veto of Jackson—received it—roused the people—and the bank and all its friends were crushed. Then it affected to have been attacked by Jackson; and Mons. de Tocqueville has carried that fiction into history, with all the imaginary reasons for a groundless accusation, which the bank had invented.

The remainder of this quotation from Mons. de Tocqueville is profoundly erroneous, and deserves to be exposed, to prevent the mischiefs which his book might do in Europe, and even in

America, among that class of our people who look to European writers for information upon their own country. He speaks of the well-informed classes who rallied round the bank; and the common people who had formed no rational opinion upon the subject, and who joined General Jackson. Certainly the great business community, with few exceptions, comprising wealth, ability and education, went for the bank, and the masses for General Jackson; but which had formed the rational opinion is seen by the event. The "well-informed" classes have bowed not merely to the decision, but to the intelligence of the masses. They have adopted their opinion of the institution—condemned it—repudiated it as an "obsolete idea;" and of all its former advocates, not one exists now. All have yielded to that instinctive sagacity of the people, which is an overmatch for book-learning; and which being the result of common sense, is usually right; and being disinterested, is always honest. I adduce this instance—a grand national one—of the succumbing of the well-informed classes to the instinctive sagacity of the people, not merely to correct Mons. de Tocqueville, but for the higher purpose of showing the capacity of the people for self-government. The rest of the quotation, "the independent existence—the people accustomed to make and unmake—startled at this obstacle—irritated at a permanent institution—attack in order to shake and control;" all this is fancy, or as the old English wrote it, fantasy—enlivened by French vivacity into witty theory, as fallacious as witty.

I could wish I were done with quotations from Mons. de Tocqueville on this subject; but he forces me to make another extract from his book, and it is found in his chapter 18, thus:

"The slightest observation enables us to appreciate the advantages which the country derives from the bank. Its notes are taken on the borders of the desert for the same value as in Philadelphia. It is nevertheless the object of great animosity. Its directors have proclaimed their hostility to the President, and are accused, not without some show of probability, of having abused their influence to thwart his election. The President, therefore, attacks the establishment with all the warmth of personal enmity; and he is encouraged in the pursuit of his revenge by the conviction that he is supported by the secret propensities of the majority. It always holds a great number of the notes issued by the provincial banks, which it can at any time oblige them to convert into cash. It has itself nothing to fear from a similar demand, as the extent of its resources enables it to meet all claims. But the existence of the provincia banks is thus threatened, and their operations are restricted, since they are only able to issue a quantity of notes duly proportioned to their capital. They submit with impatience to this salutary control. The newspapers which they have bought over, and the President, whose interest renders him their instrument, attack the bank with the greatest vehemence. They rouse the local passions and the blind democratic instinct of the country to aid in their cause; and they assert that the bank directors form a permanent aristocratic body, whose influence must ultimately be felt in the government, and must affect those principles of equality—upon which society rests in America."

Now, while Mons. de Tocqueville was arranging all this fine encomium upon the bank, and all this censure upon its adversaries, the whole of which is nothing, but a French translation of the bank publications of the day, for itself and against President Jackson—during all this time there was a process going on in the Congress of the United States, by which it was proved that the bank was then insolvent, and living from day to day upon expedients; and getting hold of property and money by contrivances which the law would qualify as swindling—plundering its own stockholders—and bribing individuals, institutions, and members of legislative bodies, wherever it could be done. Those fine notes, of which he speaks, were then without solid value. The salutary restraint attributed to its control over local banks was soon exemplified in its forcing many of them into complicity in its crimes, and all into two general suspensions of specie payments, headed by itself. Its solidity and its honor were soon shown in open bankruptcy—in the dishonor of its notes—the violation of sacred deposits—the disappearance of its capital—the destruction of institutions connected with it—the extinction of fifty-six millions of capital (its own, and that of others drawn into its vortex);—and the ruin or damage of families, both foreign and American, who had been induced by its name, and by its delusive exhibitions of credit, to invest their money in its stock. Placing the opposition of President Jackson to such an institution to the account of base and personal motives—to feelings of revenge because he had been unable to seduce it into his support—is an error of fact manifested by all the history of the case; to say nothing

of his own personal character. He was a senator in Congress during the existence of the first national bank, and was against it; and on the same grounds of unconstitutionality and of inexpediency. He delivered his opinion against this second one before it had manifested any hostility to him. His first opposition was abstract—against the institution—without reference to its conduct; he knew nothing against it then, and neither said, or insinuated any thing against it. Subsequently, when misconduct was discovered, he charged it; and openly and responsibly. Equally unfounded is the insinuation in another place, of subserviency to local banks. He, the instrument of local banks! he who could not be made the friend, even, of the great bank itself; who was all his life a hard money man—an opposer of all banks—the denouncer of delinquent banks in his own State; who, with one stroke of his pen, in the recess of Congress, and against its will, in the summer of 1836, struck all their notes from the list of land-office payments! and whose last message to Congress, and in his farewell address to the people, admonished them earnestly and affectionately against the whole system of paper money—the evils of which he feelingly described as falling heaviest upon the most meritorious part of the community, and the part least able to bear them—the productive classes.

The object of this chapter is to correct this error of Mons. de Tocqueville, and to vindicate history, and to do justice to General Jackson and the democracy: and my task is easy. Events have done it for me—have answered every question on which the bank controversy depended, and have nullified every argument in favor of the bank—and that both with, and without reference to its misconduct. As an institution, it has been proved to be "unnecessary," and the country is found to do infinitely better without it than with it. During the twenty years of its existence there was pecuniary distress in the country—periodical returns of expansion and contraction, deranged currency, ruined exchanges, panics and convulsions in the money market. In the almost twenty years which have elapsed since, these calamitous words have never been heard: and the contrast of the two periods will make the condemnation of one, and the eulogy of the other. There was no gold during the existence of the bank: there has been an ample gold currency ever since, and that before we got California. There were general suspensions of specie payments during its time; and none since. Exchanges were deranged during its existence: they have been regular since its death. Labor and property lived the life of "up and down"—high price one day, no price another day—while the bank ruled: both have been "up" all the time, since it has been gone. We have had a war since—a foreign war—which tries the strength of financial systems in all countries; and have gone through this war not only without a financial crisis, but with a financial triumph—the public securities remaining above par the whole time; and the government paying to its war debt creditors a reward of twenty dollars upon the hundred to get them to accept their pay before it is due; and in this shining side of the contrast, experience has invalidated the decision of the Supreme Court, by expunging the sole argument upon which the decision rested. "Necessity," "necessary to carry into effect the granted powers," was the decision of the court. Not so, the voice of experience. That has proved such an institution to be unnecessary. Every granted power, and some not granted, have been carried into effect since the extinction of the national bank, and since the substitution of the gold currency and the independent treasury; and all with triumphant success—the war power above all, and most successfully exercised of all. And this sole foundation for the court's decision in favor of the constitutionality of the bank being removed, the decision itself vanishes—disappears—"like the baseless fabric of a vision, leaving not a wreck behind." But there will be a time hereafter for the celebration of this victory of the constitution over the Supreme Court—the only object of this chapter being to vindicate General Jackson and the people from the errors of Mons. de Tocqueville in relation to them and the bank: which is done.

CHAPTER LXII.

EXPENSES OF THE GOVERNMENT.

Economy in the government expenditures was a cardinal feature in the democratic policy, and every increase of expense was closely scrutinized

by them, and brought to the test of the clearest necessity. Some increase was incident to the growing condition of the country; but every item beyond the exigencies of that growth was subjected to severe investigation and determined opposition. In the execution of this policy the expenses proper of the government—those incident to working its machinery—were, immediately after my entrance into the Senate, and after the army and other reductions of 1820 and '21 had taken effect—just about eight millions of dollars. The same expenditure up to the beginning of the year 1832—a period of about ten years—had risen to thirteen and a half millions: and, adverting to this increase in some current debate, and with a view to fix attention upon the growing evil, I stated to the Senate that these expenses had nearly doubled since I had been a member of the Senate. This statement drew a reply from the veteran chairman of the Senate's committee on finance (General Smith, of Maryland), in opposition to my statement; which, of course, drew further remarks from me. Both sets of remarks are valuable at this day—instructive in the picture they present between 1822—1832—and 1850. Gen. Smith's estimate of about ten millions instead of eight—though predicated on the wrong basis of beginning to count before the expenses of the army reduction had taken effect, and counting in the purchase of Florida, and some other items of a nature foreign to the support of government—even his estimate presents a startling point of comparison with the same expenditure of the present day; and calls for the revival of that spirit of economy which distinguished the democracy in the earlier periods of the government. Some passages from the speech of each senator (General Smith and Mr. Benton) will present this brief, but important inquiry, in its proper point of view. Gen. Smith said:

"I will now come, Mr. President, t my principal object. It is the assertion, 'that, since the year 1821, the expenses of the government had nearly doubled;' and I trust I shall be able to show that the senator from Missouri [Mr. Benton] had been under some misapprehension. The Senate are aware of the effect which such an assertion, coming from such high authority, must have upon the public mind. It certainly had its effect even upon this enlightened body. I mentioned to an honorable senator a few days since, that the average ordinary expenditure of the government for the last nine years did not exceed the sum of twelve and a half millions. But, said the senator, the expenditures have greatly increased during that period. I told him I thought they had not; and I now proceed to prove, that, with the exception of four years, viz., 1821, 1822, 1823, and 1824, the expenditures of the government have not increased. I shall endeavor to show the causes of the reduction of expenses during those years, and that they afford no criteria by which to judge of the necessary expenses of government, and that they are exceptions to the general rate of expenditures, arising from particular causes. But even they exhibit an expenditure far above the one half of the present annual ordinary expenses.

"In the year 1822, which was the period when the senator from Missouri [Mr. Benton] took his seat in the Senate, the ordinary expenses of the government amounted to the sum of $9,827,643. The expenses of the year 1823, amounted to $9,784,154. I proceed, Mr. President, to show the cause which thus reduced the ordinary expenses during these years. I speak in the presence of gentlemen, some of whom were then in the House of Representatives, and will correct me if my recollection should lead me into error. During the session of the year 1819-'20 the President asked a loan, I think, of five millions, to defray the expenses of the government, which he had deemed necessary, and for which estimates had, as usual, been laid before Congress. A loan of three millions only was granted; and, in the next session, another loan of, I think, seven millions was asked, in order to enable the Executive to meet the amount of expenses estimated for, as necessary for the year 1821. A loan of five millions was granted, and in the succeeding year another loan of five hundred thousand dollars was asked, and refused. Congress were dissatisfied that loans should be required in time of profound peace, to meet the common expenses of the nation; and they refused to grant the amount asked for in the estimates, although this amount would have been granted if there had been money in the treasury to meet them, without resorting to loans. The Committee of Ways and Means (and it was supported by the House) lessened some of the items estimated for, and refused others. No item, except such as was indispensably necessary, was granted. By the adoption of this course, the expenditures were reduced, in 1821, to $10,723,479, and to the sums already mentioned for the two years, 1822 and 1823, and the current expenses of 1824, $10,330,144. The consequence was, that the treasury was restored to a sound state, so that Congress was enabled, in the year 1825, to appropriate the full amount of the estimate. The expenditures of 1824 amounted to $15,330,144. This large expenditure is to be attributed to the payment made to Spain in that year, of $5,000,000 for the purchase of Florida. I entertained doubts whether I ought to include this sum in the expenditures; but, on full consideration, I deemed it proper to include it. It may be said that it was an extraordinary payment, and such as could

not again occur. So is the payment on account of awards under the Treaty of Ghent, in 1827 and 1828, amounting to $1,188,716. Of the same character, too, are the payments made for the purchase of lands from the Indians; for the removal of the Indians; for payments to the several States for moneys advanced during the late war; and a variety of other extraordinary charges on the treasury."

The error of this statement was in the basis of the calculation, and in the inclusion of items which did not belong to the expenses proper of the government, and in beginning to count before the year of reduction—the whole of which, in a period of ten years made an excess of twenty-two millions above the ordinary expenses. I answered thus:

"Mr. Benton rose in reply to the senator from Maryland. Mr. B. said that a remark of his, in a former debate, seemed to have been the occasion of the elaborate financial statements which the senator from Maryland had just gone through. Mr. B. said he had made the remark in debate; it was a general one, and not to be treated as an account stated by an accounting officer. His remark was, that the public expenditure had nearly doubled since he had been a member of the Senate. Neither the words used, nor the mode of the expression, implied the accuracy of an account; it was a remark to signify a great and inordinate increase in a comparatively short time. He had not come to the Senate this day with the least expectation of being called to justify that remark, or to hear a long arraignment of it argued; but he was ready at all times to justify, and he would quickly do it. Mr. B. said that when he made the remark, he had no statement of accounts in his eye, but he had two great and broad facts before him, which all the figures and calculations upon earth, and all the compound and comparative statements of arithmeticians, could not shake or alter, which were—first, that when he came into the Senate the machinery of this government was worked for between eight and nine millions of dollars; and, secondly, the actual payments for the last year, in the President's message, were about fourteen millions and three-quarters. The sum estimated for the future expenditures, by the Secretary of the Treasury, was thirteen and a half millions; but fifteen millions were recommended by him to be levied to meet increased expenditures. Mr. B. said these were two great facts which he had in his eye, and which he would justify. He would produce no proofs as to the second of his facts, because the President's message and the Secretary's report were so recently sent in, and so universally reprinted, that every person could recollect, or turn to their contents, and verify his statement upon their own examination or recollection. He would verify his first statement only by proofs, and for that purpose would refer to the detailed statements of the public expenditures, compiled by Van Zandt and Watterston, and for which he had just sent to the room of the Secretary of the Senate. Mr. B. would take the years 1822–'3; for he was not simple enough to take the years before the reduction of the army, when he was looking for the lowest expenditure. Four thousand men were disbanded, and had remained disbanded ever since; they were disbanded since he came into the Senate; he would therefore date from that reduction. This would bring him to the years 1822–'3, when you, sir (the Vice-President), was Secretary of War. What was the whole expenditure of the government for each of those years? It stood thus:

1822,	$17,676,592 63
1823,	15,314,171 00

"These two sums include every head of expenditure—they include public debt, revolutionary and invalid pensions; three heads of temporary expenditure. The payments on account of the public debt in those two years, were—

In 1822,	$7,848,919 12
1823,	5,530,016 41

"Deduct these two sums from the total expenditure of the years to which they refer, and you will have—

For 1822,	$9,727,673 41
1823,	9,784,155 59

"The pensions for those years were—

	Revolutionary.	*Invalid.*	*Aggregate.*
1822,	$1,642,590 94	$305,608 46	$1,947,199 40
1823,	1,449,097 04	331,491 48	1,730,588 52

"Now, deduct these pensions from the years to which they refer, and you will have just about $8,000,000 as the expense of working the machinery of government at the period which I had in my eye. But the pensions have not yet totally ceased; they are much diminished since 1822, 1823, and in a few years must cease. The revolutionary pensioners must now average seventy years of age; their stipends will soon cease. I hold myself well justified, then, in saying, as I did, that the expenditures of the government have nearly doubled in my time. The remark had no reference to administrations. There was nothing comparative in it; nothing intended to put up, or put down, any body. The burdens of the people is the only thing I wish to put down. My service in the Senate has extended under three administrations, and my periods of calculation extend to all three. My opinion now is, that the machinery of this government, after the payment of the public debt, should be worked for ten millions or less, and two millions more for extraordinaries; in all twelve millions; but this is a point for future discussion. My present object is to show a great

increase in a short time; and to show that, not to affect individuals, but to show the necessity of practising what we all profess—economy. I am against keeping up a revenue, after the debt and pensions are paid, as large, or nearly as large, as the expenditure was in 1822, 1823, with these items included. I am for throwing down my load, when I get to the end of my journey. I am for throwing off the burden of the debt, when I get to the end of the debt. The burden of the debt is the taxes levied on account of it. I am for abolishing these taxes; and this is the great question upon which parties now go to trial before the American people. One word more, and I am done for the present. The senator for Maryland, to make up a goodly average for 1822, and 1823, adds the expenditure of 1824, which includes, besides sixteen millions and a half for the public debt, and a million and a half for pensions, the sum of five millions for the purchase of Florida. Sir, he must deduct twenty-two millions from that computation; and that deduction will bring his average for those years to agree very closely with my statement."

It was something at the time this inquiry took place to know which was right—General Smith, or myself. Two millions, more or less, per annum in the public expenditures, was then something—a thing to be talked about, and accounted for, among the economical men of that day. It seems to be nothing now, when the increases are many millions per annum—when personal and job legislation have become the frequent practice—when contracts are legislated to adventurers and speculators—when the halls of Congress have come to be considered the proper place to lay the foundations, or to repair the dilapidations of millionary fortunes: and when the public fisc, and the national domain may consider themselves fortunate sometimes in getting off with a loss of two millions in a single operation.

CHAPTER LXIII.

BANK OF THE UNITED STATES—RECHARTER, COMMENCEMENT OF THE PROCEEDINGS.

In the month of December 1831, the "National Republicans" (as the party was then called which afterwards took the name of "whig), assembled in convention at Baltimore to nominate candidates of their party for the presidential, and vice-presidential election, which was to take place in the autumn of the ensuing year The nominations were made—Henry Clay of Kentucky, for President; and John Sergeant of Pennsylvania for Vice-President: and the nominations accepted by them respectively. Afterwards, and according to what was usual on such occasions, the convention issued an address to the people of the United States, setting forth the merits of their own, and the demerits of the opposite candidate; and presenting the party issues which were to be tried in the ensuing elections. So far as these issues were political, they were legitimate subjects to place before the people: so far as they were not political, they were illegitimate, and wrongfully dragged into the political arena, to be made subservient to party elevation. Of this character were the topics of the tariff, of internal improvement, the removal of the Cherokee Indians, and the renewal of the United States Bank charter. Of these four subjects, all of them in their nature unconnected with politics, and requiring for their own good to remain so unconnected, I now notice but one—that of the renewal of the charter of the existing national bank;—and which was now presented as a party object, and as an issue in the election, and under all the exaggerated aspects which party tactics consider lawful in the prosecution of their aims. The address said:

"Next to the great measures of policy which protect and encourage domestic industry, the most important question, connected with the economical policy of the country, is that of the bank. This great and beneficial institution, by facilitating exchanges between different parts of the Union, and maintaining a sound, ample, and healthy state of the currency, may be said to supply the body politic, economically viewed, with a continual stream of life-blood, without which it must inevitably languish, and sink into exhaustion. It was first conceived and organized by the powerful mind of Hamilton. After having been temporarily shaken by the honest though groundless scruples of other statesmen, it has been recalled to existence by the general consent of all parties, and with the universal approbation of the people. Under the ablest and most faithful management it has been for many years past pursuing a course of steady and constantly increasing influence. Such is the institution which the President has gone out of his way in several successive messages, without a pretence of necessity or plausible motive, in the first instance six years before his suggestion could with any propriety be acted upon, to denounce to Congress as a sort of nuisance, and consign, as far as his influence extends, to immediate destruction.

"For this denunciation no pretext of any adequate motive is assigned. At a time when the institution is known to all to be in the most efficient and prosperous state—to be doing all that any bank ever did or can do, we are briefly told in ten words, that it has not effected the objects for which it was instituted, and must be abolished. Another institution is recommended as a substitute, which, so far as the description given of it can be understood, would be no better than a machine in the hands of the government for fabricating and issuing paper money without check or responsibility. In his recent message to Congress, the President declares, for the third time, his opinion on these subjects, in the same concise and authoritative style as before, and intimates that he shall consider his re-election as an expression of the opinion of the people that they ought to be acted on. If, therefore, the President be re-elected, it may be considered certain that the bank will be abolished, and the institution which he has recommended, or something like it, substituted in its place.

"Are the people of the United States prepared for this? Are they ready to destroy one of their most valuable establishments to gratify the caprice of a chief magistrate, who reasons, and advises upon a subject, with the details of which he is evidently unacquainted, in direct contradiction to the opinion of his own official counsellors? Are the enterprising, liberal, high-minded, and intelligent *merchants* of the Union willing to countenance such a measure? Are the cultivators of the West, who find in the Bank of the United States a never-failing source of that *capital*, which is so essential to their prosperity, and which they can get nowhere else, prepared to lend their aid in drying up the fountain of their own prosperity? Is there any class of the people or section of the Union so lost to every sentiment of common prudence, so regardless of all the principles of republican government, as to place in the hands of the executive department the means of an irresponsible and unlimited issue of paper money—in other words, the means of corruption without check or bounds? If such be, in fact, the wishes of the people, they will act with consistency and propriety in voting for General Jackson, as President of the United States; for, by his re-election, all these disastrous effects will certainly be produced. He is fully and three times over pledged to the people to negative any bill that may be passed for re chartering the bank, and there is little doubt that the additional influence which he would acquire by a re-election, would be employed to carry through Congress the extraordinary substitute which he has repeatedly proposed."

Thus the bank question was fully presented as an issue in the election by that part of its friends which classed politically against President Jackson; but it had also democratic friends, without whose aid the recharter could not be got through Congress; and the result produced which was contemplated with hope and pleasure—responsibility of a veto thrown upon the President. The consent of this wing was necessary: and it was obtained as related in a previous chapter, through the instrumentality of a caucus—that contrivance of modern invention by which a few govern many—by which the many are not only led by the few, but subjugated by them, and turned against themselves: and after having performed at the caucus as a *figurante* (to make up a majority), become real actors in doing what they condemn. The two wings of the bank friends were brought together by this machinery, as already related in chapter lxi.; and operations for the new charter immediately commenced, in conformity to the decision. On the 9th day of January the memorial of the President, Directors & Company of the Bank was presented in each House —by Mr. Dallas in the Senate, and Mr. McDuffie in the House of Representatives; and while condemning the time of bringing forward the question of the recharter, Mr. Dallas, in further intimation of his previously signified opinion of its then dangerous introduction, said: "He became a willing, as he was virtually an instructed agent, in promoting to the extent of his humble ability, an object which, *however dangerously timed its introduction might seem*, was in itself as he conceived, entitled to every consideration and favor." Mr. Dallas then moved for a select committee to revise, consider, and report upon the memorial—which motion was granted, and Messrs. Dallas, Webster, Ewing of Ohio, Hayne of South Carolina, and Johnston of Louisiana, were appointed the committee—elected for that purpose by a vote of the Senate—and all except one favorable to the recharter.

In the House of Representatives Mr. McDuffie did not ask for the same reference—a select committee—but to the standing committee of Ways and Means, of which he was chairman, and which was mainly composed of the same members as at the previous session when it reported so elaborately in favor of the bank. The reason of this difference on the point of the reference was understood to be this: that in the Senate the committee being elective, and the majority of the body favorable to the bank, a favorable committee was certain to be had on

ballot—while in the House the appointment of the committee being in the hands of the Speaker (Mr. Stevenson), and he adverse to the institution, the same favorable result could not be safely counted on; and, therefore, the select committee was avoided, and the one known to be favorable was preferred. This led to an adverse motion to refer to a select committee—in support of which motion Mr. Wayne of Georgia, since appointed one of the justices of the Supreme Court, said:

"That he had on a former occasion expressed his objection to the reference of this subject to the Committee of Ways and Means; and he should not trouble the House by repeating now what he had advanced at the commencement of the session in favor of the appointment of a select committee; but he called upon gentlemen to consider what was the attitude of the Committee of Ways and Means in reference to the bank question, and to compare it with the attitude in which that question had been presented to the House by the President of the United States; and he would ask, whether it was not manifestly proper to submit the memorial to a committee entirely uncommitted upon the subject. But this was not the object for which he had risen; the present question had not come upon him unexpectedly; he had been aware before he entered the House that a memorial of this kind would this morning be presented; and when he looked back upon the occurrences of the last four weeks, and remembered what had taken place at a late convention in Baltimore, and the motives which had been avowed for bringing forward the subject at this time, he must say that gentlemen ought not to permit a petition of this kind to receive the attention of the House. Who could doubt that the presentation of that memorial was in fact a party measure, intended to have an important operation on persons occupying the highest offices of the government? If, however, it should be considered necessary to enter upon the subject at the present time, Mr. Wayne said he was prepared to meet it. But when gentlemen saw distinctly before their eyes the motive of such a proceeding, he hoped that, notwithstanding there might be a majority in the House in favor of the bank, gentlemen would not lend themselves to that kind of action. Could it be necessary to take up the question of rechartering the bank at the present session? Gentlemen all knew that four years must pass before its charter would expire, and that Congress had power to extend the period, if further time was necessary to wind up its affairs. It was known that other subjects of an exciting character must come up during the present session; and could there be any necessity or propriety in throwing additional matter into the House, calculated to raise that excitement yet higher?"

Mr. McDuffie absolved himself from all connection with the Baltimore national republican convention, and claimed like absolution for the directory of the bank; and intimated that a caucus consultation to which democratic members were party, had led to the presentation of the memorial at this time;—an intimation entirely true, only it should have comprehended all the friends of the bank of both political parties. A running debate took place on these motions, in which many members engaged. Admitting that the parliamentary law required a friendly committee for the application, it was yet urged that that committee should be a select one, charged with the single subject, and with leisure to make investigations;—which leisure the Committee of Ways did not possess—and could merely report as formerly, and without giving any additional information to the House. Mr. Archer of Virginia, said:

"As regarded the disposal of the memorial, it appeared clear to him that a select committee would be the proper one. This had been the disposal adopted with all former memorials. Why vary the mode now? The subject was of a magnitude to entitle it to a special committee. As regarded the Committee of Ways and Means, with its important functions, were not its hands to be regarded as too full for the great attention which this matter must demand? It was to be remarked, too, that this committee, at a former session, with little variety in its composition, had, in the most formal manner, expressed its opinion on the great question involved. We ought not, as had been said, to put the memorial to a nurse which would strangle it. Neither would it be proper to send it to an inquest in which its fate had been prejudged. Let it go to either the Committee of Ways and Means, or a select committee; the chairman of that committee would stand as he ought, in the same relation to it. If the last disposal were adopted, too, the majority of the committee would consist, under the usage in that respect, of friends of the measure. The recommendation of this mode was, that it would present the nearest approach to equality in the contest, of which the case admitted.

"Mr. Mitchell, of South Carolina, said that he concurred entirely in the views of his friend from Georgia [Mr. Wayne]. He did not think that the bank question ought to be taken up at all this session; but if it were, it ought most unquestionably to be referred to a select committee. He saw no reason, however, for its being referred at all. The member from South Carolina [Mr. McDuffie] tells us, said Mr. M., that it involves the vast amount of fifty millions of dollars; that this is dispersed to every class

of people in our widely extended country; and if the question of rechartering were not decided now, it would hazard these great and complicated interests. Mr. M. said he attached no importance to this argument. The stockholders who met lately at Philadelphia thought differently, for, by a solemn resolution, they left it discretionary with the president of the bank to propose the question to Congress when he saw fit. If they had thought that a postponement would have endangered their interests, would they not have said so? This fact does away the argument of the member from South Carolina. The bank question was decided by the strongest party question which could be put to this or any House. It has been twice discussed within a few years. It was rejected once in the Senate by the vote of the Vice-President, and it afterwards passed this House with a majority of two. It would divide the whole country, and excite on that floor, feelings of the most exasperated bitterness. Not a party question? Does not the member from South Carolina [Mr. McDuffie] remember that this question divided the country into federalists and republicans? It was a great constitutional question, and he hoped all those who thought with him, would rally against it in all their strength. But why refer it to the Committe of Ways and Means? It was committed before to a select committee on national currency. If the question was merely financial, as whether we should sell our stock, and, if we did, whether we should sell it to the bank, he would not object to its being referred to the Committee of Ways and Means. But it was not a question of revenue. It was one of policy and the constitution—one of vast magnitude and of the greatest complexity—requiring a committee of the most distinguished abilities on that floor. It was a party question in reference to men and things out of doors. Those who deny this, must be blind to every thing around them—we hear it every where—we see it in all which we read. Sir, we have now on hand a topic which must engross every thought and feeling—a topic which perhaps involves the destinies of this nation—a topic of such magnitude as to occupy us the remainder of the session; I mean the tariff. I hope, therefore, this memorial will be laid on the table, and, if not, that it will be referred to a select committee."

Mr. Charles Johnston, of Virginia, said:

"The bank has been of late distinctly and repeatedly charged with using its funds, and the funds of the people of these States, in operating upon and controlling public opinion. He did not mean to express any opinion as to the truth or falsehood of this accusation, but it was of sufficient consequence to demand an accurate inquiry. The bank was further charged with violating its charter, in the issue of a great number of small drafts to a large amount, and payable, in the language of the honorable member from New-York [Mr. Cambreleng], "nowhere;' this charge, also, deserved inquiry. There were other charges of maladministration which equally deserved inquiry; and it was his [Mr. J.'s] intention, at a future day, unless some other gentleman more versed in the business of the House anticipated him, to press these inquiries by a series of instructions to the committee intrusted with the subject. Mr. J. urged as an objection to referring this inquiry to the Committee of Ways and Means, that so much of their time would be occupied with the regular and important business connected with the fiscal operations of the government, that they could not spare labor enough to accomplish the minute investigations wanted at their hands. We had been further told that all the members of that committee were friendly to the project of rechartering the bank, and the honorable gentleman [Mr. Mercer] had relied upon the fact, as a fair exponent of public opinion in favor of the bank. He [Mr. J.] added, that although he could by no means assent to the force of this remark, yet that it furnished strong reason for those who wished a close scrutiny of the administration of the bank, to wish some gentlemen placed on the committee of inquiry, who would be actuated by the zeal of fair opposition to the bank; he conceded that a majority of the committee should be composed of its friends. He concluded, by hoping that the memorial would be referred to a select committee."

Finally the vote was taken, and the memorial referred to the Committee of Ways and Means, but by a slender majority—100 against 90—and 24 members absent, or not voting. The members of the committee were: Messrs. McDuffie, of South Carolina; Verplanck of New-York; Ingersoll, of Connecticut; Gilmore, of Pennsylvania; Mark Alexander, of Virginia; Wilde, of Georgia; and Gaither, of Kentucky.

CHAPTER LXIV.

BANK OF THE UNITED STATES—COMMITTEE OF INVESTIGATION ORDERED.

Seeing the state of parties in Congress, and the tactics of the bank—that there was a majority in each House for the institution, and no intention to lose time in arguing for it—our course of action became obvious, which was—to attack incessantly, assail at all points, display the evil of the institution, rouse the people—and prepare them to sustain the veto. It was seen to be the

policy of the bank leaders to carry the charter first, and quietly through the Senate; and afterwards, in the same way in the House. We determined to have a contest in both places, and to force the bank into defences which would engage it in a general combat, and lay it open to side-blow, as well as direct attacks. With this view a great many amendments and inquiries were prepared to be offered in the Senate, all of them proper, or plausible, recommendable in themselves, and supported by acceptable reasons; which the friends of the bank must either answer, or reject without answer; and so incur odium. In the House it was determined to make a move, which, whether resisted or admitted by the bank majority, would be certain to have an effect against the institution—namely, an investigation by a committee of the House, as provided for in the charter. If the investigation was denied, it would be guilt shrinking from detection; if admitted, it was well known that misconduct would be found. I conceived this movement, and had charge of its direction. I preferred the House for the theatre of investigation, as most appropriate, being the grand inquest of the nation; and, besides, wished a contest to be going on there while the Senate was engaged in passing the charter; and the right to raise the committee was complete, in either House. Besides the right reserved in the charter, there was a natural right, when the corporation was asked for a renewed lease, to inquire how it had acted under the previous one. I got Mr. Clayton, a new member from Georgia (who had written a pamphlet against the bank in his own State), to take charge of the movement; and gave him a memorandum of seven alleged breaches of the charter, and fifteen instances of imputed misconduct, to inquire into, if he got his committee; or to allege on the floor, if he encountered resistance.

On Thursday, the 23d of February, Mr. Clayton made his motion—"That a select committee be appointed to examine into the affairs of the Bank of the United States, with power to send for persons and papers, and to report the result of their inquiries to the House." This motion was objected to, and its consideration postponed until the ensuing Monday. Called up on that day, an attempt was made to repulse it from the consideration of the House. Mr. Watmough, a representative from Pennsylvania, and from the city, a friend to the bank, and from his locality and friendship supposed to be familiar with its wishes, raised the question of consideration—that is, called on the House to decide whether they would consider Mr. Clayton's motion; a question which is only raised under the parliamentary law where the motion is too frivolous, or flagrantly improper, to receive the attention of the House. It was a false move on the part of the institution; and the more so as it seemed to be the result of deliberation, and came from its immediate representative. Mr. Polk, of Tennessee, saw the advantage presented; and as the question of consideration was not debatable, he demanded, as the only mode of holding the movement to its responsibility, the yeas and nays on Mr. Watmough's question. But it went off on a different point—a point of order—the question of consideration not lying after the House has taken action on the subject; and in this case that had been done—very little action to be sure—only postponing the consideration from one day to another; but enough to satisfy the rule; and so the motion of Mr. Watmough was disallowed; and the question of consideration let in. Another movement was then made to cut off discussion, and get rid of the resolution, by a motion to lay it on the table, also made by a friend of the bank [Mr. Lewis Williams, of North Carolina]. This motion was withdrawn at the instance of Mr. McDuffie, who began to see the effect of these motions to suppress, not only investigation, but congressional discussion; and, besides, Mr. McDuffie was a bold man, and an able debater, and had examined the subject, and reported in favor of the bank, and fully believed in its purity; and was, therefore, the less averse to debate. But resistance to investigation was continued by others, and was severely animadverted upon by several speakers—among others, by Mr. Polk, of Tennessee, who said:

"The bank asks a renewal of its charter; and ought its friends to object to the inquiry? He must say that he had been not a little surprised at the unexpected resistance which had been offered to the resolution under consideration, by the friends and admirers of this institution—by those who, no doubt, sincerely believed its continued existence for another term of twenty years to be essential to the prosperity of the country. He repeated his surprise that its friends should be found shrinking from the investigation proposed. He would not say that such resistance

afforded any fair grounds of inference that there might be something "rotten in the state of Denmark." He would not say this; for he did not feel himself authorized to do so; but was it not perceived that such an inference might, and probably would, be drawn by the public? On what ground was the inquiry opposed? Was it that it was improper? Was it that it was unusual? The charter of the bank itself authorized a committee of either House of Congress to examine its books, and report upon its condition, whenever either House may choose to institute an examination. A committee of this House, upon a former occasion, did make such an examination, and he would refer to their report before he sat down. Upon the presentation of the bank memorial to the other branch of the legislature, a select committee had been invested with power to send for persons and papers, if they chose to do so. When the same memorial was presented to that House, what had been the course pursued by the friends of the bank? A motion to refer it to a select committee was opposed. It was committed to their favorite Committee of Ways and Means. He meant no disrespect to that committee, when he said that the question of rechartering the bank was known to have been prejudged by that committee. When the President of the United States brought the subject of the bank to the notice of Congress in December, 1829, a select committee was refused by the friends of the bank, and that portion of the message was referred to the Committee of Ways and Means. Precisely the same thing occurred at the commencement of the last and at the present session of Congress, in the reference which was made of that part of the messages of the President upon the subject of the bank. The friends of this institution have been careful always to commit it to the same committee, a committee whose opinions were known. Upon the occasion first referred to, that committee made a report favorable to the bank, which was sent forth to the public,—not a report of facts, not a report founded upon an examination into the affairs of the bank. At the present session, we were modestly asked to extend this bank monopoly for twenty years, without any such examination having taken place. The committee had reported a bill to that effect, but had given us no facts in relation to the present condition of the bank. They had not even deemed it necessary to ask to be invested with power to examine either into its present condition, or into the manner in which its affairs have been conducted.

"He would now call the attention of the House to the examination of the bank, made by a committee of this House in the year 1819, and under the order of the House. He then held the report of that committee in his hand. That committee visited the bank at Philadelphia; they examined its books, and scrutinized its conduct. They examined on oath the president, a part of the directors and officers of the bank. And what was the result? They discovered many and flagrant abuses. They found that the charter had been violated in divers particulars, and they so reported to this House. He would not detain the House, however, with the details of that document. Gentlemen could refer to it, and satisfy themselves. It contained much valuable information, as bearing upon the proposition now before the House. It was sufficient to say that at that period, within three years after the bank had gone into existence, it was upon the very verge of bankruptcy. This the gentleman from South Carolina would not deny. The report of the committee to which he had alluded authorized him to say that there had been gross mismanagement, he would not use any stronger term, and in the opinion of that committee (an opinion never reversed by Congress) a palpable violation of the charter. Now sir, this was the condition of the bank in 1819. The indulgence of Congress induced them not to revoke the charter. The bank had gone on in its operations. Since that period no investigation or examination had taken place. All we knew of its doings, since that period, was from the *ex parte* reports of its own officers. These may all be correct, but, if they be so, it could do no harm to ascertain the fact."

Mr. Clayton then justified his motion for the committee, *first* upon the provisions of the charter (article 23) which gave to either House of Congress the right at all times to appoint a committee to inspect the books, and to examine in to the proceedings of the bank; and to report whether the provisions of the charter had been violated; and he treated as a revolt against this provision of the charter, as well as a sign of guilt, this resistance to an absolute right on the part of Congress, and most proper to be exercised when the institution was soliciting the continuation of its privileges; and which right had been exercised by the House in 1819, when its committee found various violations of the charter, and proposed a *scire facias* to vacate it:—which was only refused by Congress, not for the sake of the bank, but for the community—whose distresses the closing of the bank might aggravate. *Next*, he justified his motion on the ground of misconduct in the bank in seven instances of violated charter, involving forfeiture; and fifteen instances of abuse, which required correction, though not amounting to forfeiture of the charter. All these he read to the House, one by one, from a narrow slip of paper, which he continued rolling round his finger all the time. The memorandum was mine—in my handwriting—given to him to copy, and amplify, as they

were brief memoranda. He had not copied them; and having to justify suddenly, he used the slip I had given him—rolling it on his finger, as on a cylinder, to prevent my handwriting from being seen: so he afterwards told me himself. The reading of these twenty-two heads of accusation, like so many counts in an indictment, sprung the friends of the bank to their feet—and its foes also—each finding in it something to rouse them—one to the defence, the other to the attack. The accusatory list was as follows:

"First: *Violations of charter amounting to forfeiture:*

"1. The issue of seven millions, and more, of branch bank orders as a currency.

"2. Usury on broken bank notes in Ohio and Kentucky: nine hundred thousand dollars in Ohio, and nearly as much in Kentucky. See 2 Peters' Reports, p. 527, as to the nature of the case.

"3. Domestic bills of exchange, disguised loans to take more than at the rate of six per cent. Sixteen millions of these bills for December last. See monthly statements.

4. Non-user of the charter. In this, that from 1819 to 1826, a period of seven years, the South and West branches issued no currency of any kind. See the doctrine on non-user of charter and duty of corporations to act up to the end of their institution, and forfeiture for neglect.

"5. Building houses to rent. See limitation in their charter on the right to hold real property.

"6. In the capital stock, not having due proportion of coin.

"7. Foreigners voting for directors, through their trustees.

"Second: *Abuses worthy of inquiry, not amounting to forfeiture, but going, if true, clearly to show the inexpediency of renewing the charter.*

"1. Not cashing its own notes, or receiving in deposit at each branch, and at the parent bank, the notes of each other. By reason of this practice, notes of the mother bank are at a discount at many, if not all, of her branches, and completely negatives the assertion of 'sound and uniform currency.'

"2. Making a difference in receiving notes from the federal government and the citizens of the States. This is admitted as to all notes above five dollars.

"3. Making a difference between members of Congress and the citizens generally, in both granting loans and selling bills of exchange. It is believed it can be made to appear that members can obtain bills of exchange without, citizens with a premium; the first give nominal endorsers, the other must give two sufficient resident endorsers.

"4. The undue accumulation of proxies in the hands of a few to control the election for directors.

"5. A strong suspicion of secret understanding between the bank and brokers to job in stocks, contrary to the charter. For example, to buy up three per cent. stock at this day; and force the government to pay at par for that stock; and whether the government deposits may not be used to enhance its own debts.

"6. Subsidies and loans, directly or indirectly, to printers, editors, and lawyers, for purposes other than the regular business of the bank.

"7. Distinction in favor of merchants in selling bills of exchange.

"8. Practices upon local banks and debtors to make them petition Congress for a renewal of its charter, and thus impose upon Congress by false clamor.

"9. The actual management of the bank, whether safely and prudently conducted. See monthly statements to the contrary.

"10. The actual condition of the bank, her debts and credits; how much she has increased debts and diminished her means to pay in the last year; how much she has increased her credits and multiplied her debtors, since the President's message in 1829, without ability to take up the notes she has issued, and pay her deposits.

"11. Excessive issues, all on public deposits.

"12. Whether the account of the bank's prosperity be real or delusive.

"13. The amount of gold and silver coin and bullion sent from Western and Southern branches of the parent bank since its establishment in 1817. The amount is supposed to be fifteen or twenty millions, and, with bank interest on bank debts, constitutes a system of the most intolerable oppression of the South and West. The gold and silver of the South and West have been drawn to the mother bank, mostly by the agency of that unlawful currency created by branch bank orders, as will be made fully to appear.

"14. The establishment of agencies in different States, under the direction and management of one person only, to deal in bills of exchange, and to transact other business properly belonging to branch banks, contrary to the charter.

"15. Giving authority to State banks to discount their bills without authority from the Secretary of the Treasury."

Upon the reading of these charges a heated and prolonged discussion took place, in which more than thirty members engaged (and about an equal number on each side); in which the friends of the bank lost so much ground in the public estimation, in making direct opposition to investigation, that it became necessary to give up that species of opposition—declare in favor of examination—but so conducted as to be nu-

gatory, and worse than useless. One proposition was to have the investigation made by the Committee of Ways and Means—a proposition which involved many departures from parliamentary law—from propriety—and from the respect which the bank owed to itself, if it was innocent. By all parliamentary law such a committee must be composed of members friendly to the inquiry—hearty in the cause—and the mover always to be its chairman: here, on the contrary, the mover was to be excluded: the very champion of the Bank defence was to be the investigating chairman; and the committee to whom it was to go, was the same that had just reported so warmly for the Bank. But this proposition had so bad a look that the chairman of the Committee of Ways and Means (Mr. McDuffie) objected to it himself, utterly refusing to take the office of prosecutor against an institution of which he was the public defender. Propositions were then made to have the committee appointed by ballot, so as to take the appointment of the committee out of the hands of the Speaker (who, following the parliamentary rule, would select a majority of members favorable to inquiry); and in the vote by ballot, the bank having a majority in the House, could reverse the parliamentary rule, and give to the institution a committee to shield, instead of to probe it. Unbecoming, and even suspicious to the institution itself as this proposition was, it came within a tie vote of passing, and was only lost by the casting vote of the Speaker. Investigation of some kind, and by a select committee, becoming then inevitable, the only thing that could be done in favor of the bank was to restrict its scope; and this was done both as to time and matter; and also as to the part of the institution to be examined. Mr. Adams introduced a resolution to limit the inquiry to the operations of the mother bank, thereby skipping the twenty-seven branches, though some of them were nearer than the parent bank; also limiting the points of inquiry to breaches of the charter, so as to cut off the abuses; also limiting the time to a short day (the 21st of April)—March then being far advanced; so as to subject full investigation to be baffled for the want of time. The reason given for these restrictions was to bring the investigation within the compass of the session—so as to insure action on the application before the adjournment of Congress—thereby openly admitting its connection with the presidential election. On seeing his proposed inquiry thus restricted, Mr. Clayton thus gave vent to his feelings:

"I hope I may be permitted to take a parting leave of my resolution, as I very plainly perceive that it is going the way of all flesh. I discover the bank has a complying majority at present in this House, and at this late hour of the night are determined to carry things in their own way; but, sir, I view with astonishment the conduct of that majority. When a speaker rises in favor of the bank, he is listened to with great attention; but when one opposed to it attempts to address the House, such is the intentional noise and confusion, he cannot be heard; and, sir, the gentleman who last spoke but one in favor of an inquiry, had to take his seat in a scene little short of a riot. I do not understand such conduct. When I introduced my resolution, I predicated it upon the presumption that every thing in this House would, when respectfully presented, receive a respectful consideration, and would be treated precisely as all other questions similarly situated are treated. I expected the same courtesy that other gentlemen received in the propositions submitted by them, that it would go to a committee appointed in the usual form, and that they would have the usual time to make their report. I believed, for I had no right to believe otherwise, that all committees of this House were honest, and that they had too much respect for themselves, as well as for the House, to trifle with any matter confided to their investigation. Believing this, I did expect my resolution would be submitted in the accustomed way; and if this House had thought proper to trust me, in part, with the examination of the subject to which it refers, I would have proceeded to the business in good faith, and reported as early as was practicable with the important interests at stake. It has been opposed in every shape; vote upon vote has been taken upon it, all evidently tending to evade inquiry; and now it is determined to compel the committee to report in a limited time, a thing unheard of before in this House, and our inquiries are to be confined entirely to the mother bank; whereas her branches, at which more than half the frauds and oppressions complained of have been committed, are to go unexamined, and we are to be limited to breaches of the charter when the abuses charged are numerous and flagrant, and equally injurious to the community. We are only to examine the books of the parent bank, the greatest part of which may be accidentally from home, at some of the branches. If the bank can reconcile it to herself to meet no other kind of investigation but this, she is welcome to all the advantages which such an insincere and shuffling course is calculated to confer; the people of this country are too intelligent not to understand exactly her object."

Among the abuses cut off from examinations by these restrictions, were two modes of extorting double and treble compensation for the use of money, one by turning a loan note into a bill of exchange, and the other by forcing the borrower to take his money upon a domestic bill instead of on a note—both systematically practised upon in the West, and converting nearly all the Western loans into enormously usurious transactions. Mr. Clayton gave the following description of the first of these modes of extorting usury:

"I will now make a fuller statement; and I think I am authorized to say that there are gentlemen in this House from the West, and under my eye at present, who will confirm every word I say. A person has a note in one of the Western branch banks, and if the bank determines to extend no further credit, its custom is, when it sends out the usual notice of the time the note falls due, to write across the notice, in red ink, these three fatal words—well understood in that country—'Payment is expected.' This notice, thus rubricated, becomes a death-warrant to the credit of that customer, unless he can raise the wind, as it is called, to pay it off, or can discount a domestic bill of exchange. This last is done in one of two ways. If he has a factor in New Orleans who is in the habit of receiving and selling his produce, he draws upon him to pay it off at maturity. The bank charges two per centum for two months, the factor two and a half, and thus, if the draft is at sixty days, he pays at the rate of twenty-seven per centum. If, however, he has no factor, he is obliged to get some friend who has one to make the arrangement to get his draft accepted. For this accommodation he pays his friend one and a half per cent., besides the two per cent. to the bank, and the two and a half per cent. to the acceptor; making, in this mode of arrangement, thirty-six per cent. which he pays before he can get out of the clutches of the bank for that time, twelve per cent. of which, in either case, goes to the bank; and so little conscience have they, in order to make this, they will subject a poor and unfortunate debtor to the other enormous burdens, and consequently to absolute beggary. For it must be obvious to every one that such a per cent. for money, under the melancholy depreciation of produce every where in the South and West, will soon wind up the affairs of such a borrower. No people under the heavens can bear it; and unless a stop is put to it, in some way or other, I predict the Western people will be in the most deplorable situation it is possible to conceive. There is another great hardship to which this debtor is liable, if he should not be able to furnish the produce; or, which is sometimes the case, if it is sacrificed in the sale of it at the time the draft becomes due, whereby it is protested for want of funds, it returns upon him with the additional cost of ten per cent. for non-payment. Now, sir, that is what is meant by domestic bills of exchange, disguised as loans, to take more than six per cent.; for, mark, Mr. Speaker, the bank does not purchase a bill of exchange by paying out cash for it, and receiving the usual rate of exchange, which varies from one-quarter to one per cent.; but it merely delivers up the poor debtor's note which was previously in bank, and, what is worse, just as well secured as the domestic bill of exchange which they thus extort from him in lieu thereof. And while they are thus exacting this per cent. from him, they are discounting bills for others not in debt to them at the usual premium of one per cent. The whole scene seems to present the picture of a helpless sufferer in the hands of a ruffian, who claims the merit of charity for discharging his victim alive, after having torn away half his limbs from his body."

The second mode was to make the loan take the form of a domestic bill from the beginning; and this soon came to be the most general practice. The borrowers finding that their notes were to be metamorphosed into bills payable in a distant city, readily fell into the more convenient mode of giving a bill in the first instance payable in some village hard by, where they could go to redeem it without giving commissions to intermediate agents in the shape of endorsers and brokers. The profit to the bank in this operation was to get six per centum interest, and two per cent. exchange; which, on a sixty days' bill, was twelve per cent. per annum; and, added to the interest, eighteen per cent. per annum; with the addition of ten per centum damages if the bill was protested; and of this character were the mass of the loans in the West—a most scandalous abuse, but cut off, with a multitude of others, from investigation from the restrictions placed upon the powers of the committee.

The supporters of the institution carried their point in the House, and had the investigation in their own way; but with the country it was different. The bank stood condemned upon its own conduct, and badly crippled by the attacks upon her. More than a dozen speakers assailed her: Clayton, Wayne, Foster of Georgia; J. M. Patton, Archer, and Mark Alexander of Virginia; James K. Polk of Tennessee; Cambreleng, Beardsley, Hoffman and Angel of New-York; Mitchell and Blair of South Carolina; Carson of North Carolina · Leavitt of Ohio

The speakers on the other side were: McDuffie and Drayton of South Carolina; Denny, Crawford, Coulter, Watmough, of Pennsylvania; Daniel of Kentucky; Jenifer of Maryland; Huntington of Connecticut; Root and Collins of New-York; Evans of Maine; Mercer of Virginia; Wilde of Georgia. Pretty equally matched both in numbers and ability; but the difference between attack and defence—between bold accusation and shrinking palliation—the conduct of the bank friends, first in resisting all investigation, then in trying to put it into the hands of friends, then restricting the examination, and the noise and confusion with which many of the anti-bank speeches were saluted—gave to the assailants the appearance of right, and the tone of victory throughout the contest; and created a strong suspicion against the bank. Certainly its conduct was injudicious, except upon the hypothesis of a guilt, the worst suspicion of which would be preferable to open detection; and such, eventually, was found to be the fact. In justice to Mr. McDuffie, the leading advocate of the bank, it must be remembered that the attempts to stifle, or evade inquiry, did not come from him but from the immediate representative of the bank neighborhood—that he twice discountenanced and stopped such attempts, requesting them to be withdrawn; and no doubt all the defenders of the bank at the time believed in its integrity and utility, and only followed the lead of its immediate friends in the course which they pursued. For myself I became convinced that the bank was insolvent, as well as criminal; and that, to her, examination was death; and therefore she could not face it.

The committee appointed were: Messrs. Clayton, Richard M. Johnson of Kentucky, Francis Thomas of Maryland, and Mr. Cambreleng of New-York, opposed to the recharter of the Bank; Messrs. McDuffie, John Quincy Adams, and Watmough, in favor of it. The committee was composed according to the parliamentary rule—the majority in favor of the object—but one of them (Colonel Johnson of Kentucky), was disqualified by his charitable and indulgent disposition for the invidious task of criminal inquisition; and who frankly told the House, after he returned, that he had never looked at a bank-book, or asked a question while he was at Philadelphia; and, Mr. Adams, in invalidating the report of the majority against the bank, disputed the reality of the majority, saying that the good nature of Colonel Johnson had merely licensed it. On the other hand, the committee was as favorably composed for the bank—Mr. Adams and Mr. McDuffie both able writers and speakers, of national reputation, investigating minds, ardent temperaments, firm believers in the integrity and usefulness of the corporation; and of character and position to be friendly to the institution without the imputation of an undue motive. Mr. Watmough was a new member, but acceptable to the bank as its immediate representative, as the member that had made the motions to baffle investigation; and as being from his personal as well as political and social relations, in the category to form, if necessary, its channel of confidential communication with the committee.

The committee made three reports—one by the majority, one by the minority, and one by Mr. Adams alone. The first was a severe recrimination of the bank on many points—usury, issuing branch bank orders as a currency, selling coin, selling stock obtained from government under special acts of Congress, donations for roads and canals, building houses to rent or sell, loans unduly made to editors, brokers, and members of Congress. The adversary reports were a defence of the bank on all these points, and the highest encomiums upon the excellence of its management, and the universality of its utility; but too much in the spirit of the advocate to retain the character of legislative reports—which admit of nothing but facts stated, inductions drawn, and opinions expressed. Both, or rather all three sets of reports, were received as veracious, and lauded as victorious, by the respective parties which they favored; and quoted, as settling for ever the bank question, each way. But, alas, for the effect of the progress of events! In a few brief years all this attack and defence—all this elaboration of accusation, and refinement of vindication—all this zeal and animosity, for and against the bank—the whole contest—was eclipsed and superseded by the actualities of the times the majority report, as being behind the facts: the minority, as resting upon vanished illusions. And the great bank itself, antagonist of Jackson, called imperial by its friends, and actually constituting

a power in the State—prostrate in dust and ashes—and invoking from the community, through the mouth of the greatest of its advocates (Mr. Webster), the oblivion and amnesty of an "obsolete idea."

It is not the design of this View to explore these reports for the names of persons implicated (some perhaps unjustly), in the criminating statements of the majority. The object proposed in this work does not require that interference with individuals. The conduct of the institution is the point of inquiry; and in that conduct will be found the warning voice against the dangers and abuses of such an establishment in all time to come.

CHAPTER LXV.

THE THREE PER CENT. DEBT, AND LOSS IN NOT PAYING IT WHEN THE RATE WAS LOW, AND THE MONEY IN THE BANK OF THE UNITED STATES WITHOUT INTEREST.

THERE was a part of the revolutionary debt, incurred by the States and assumed by Congress, amounting to thirteen and a quarter millions of dollars, on which an interest of only three per centum was allowed. Of course, the stock of this debt could be but little over fifty cents in the dollar in a country where legal interest was six per centum, and actual interest often more. In 1817, when the Bank of the United States went into operation, the price of that stock was sixty-four per centum—the money was in bank, more than enough to pay it—a gratuitous deposit, bringing no interest—and which was contained in her vaults—her situation soon requiring the aid of the federal government to enable her to keep her doors open. I had submitted a resolve early in my term of service to have this stock purchased at its market value; and for that purpose to enlarge the power of the commissioners of the sinking fund, then limited to a price a little below the current rate: a motion which was resisted and defeated by the friends of the bank. I then moved a resolve that the bank pay interest on the deposits: which was opposed and defeated in like manner. Eventually, and when the rest of the public debt should be paid off, and the payment of these thirteen and a quarter millions would become obligatory under a policy which eschewed all debt—a consummation then rapidly approaching, under General Jackson's administration—it was clear that the treasury would pay one hundred cents on the dollar on what could be then purchased for sixty-odd, losing in the mean time the interest on the money with which it could be paid. It made a case against the bank, which it felt itself bound to answer, and did so through senator Johnson, of Louisiana: who showed that the bank paid the debt which the commissioners of the sinking fund required. This was true; but it was not the point in the case. The point was that the money was kept in deposit to sustain the bank, and the enlargement of the powers of the commissioners resisted to prevent them from purchasing this stock at a low rate, in view of its rise to par: which soon took place; and made palpable the loss to the United States. At the time of the solicited renewal of the charter, this non-payment of the three per cents was brought up as an instance of loss incurred on account of the bank; and gave rise to the defence from Mr. Johnson; to which I replied:

"Mr. Benton had not intended, he said, to say a word in relation to this question, nor should he now rise to speak upon it, but from what had fallen from the senator from New Jersey. That gentleman had gone from the resolution to the bank, and from the bank he had gone to statements respecting his resolutions on alum salt, which were erroneous. Day by day, memorials were poured in upon us by command of the bank, all representing, in the same terms, the necessity of renewing its charter. These memorials, the tone of which, and the time of their presentation, showed their common origin, were daily ordered to be printed. These papers, forming a larger mass than we ever had on our tables before, and all singing, to the same tune, the praises of the bank, were ordered to be printed without hesitation. The report which he had moved to have printed for the benefit of the farmers, was struck at by the senator of New Jersey. In the first place, the senator was in error as to the cost of printing the report. He had stated it to be one thousand nine hundred dollars, whereas it was only one thousand one hundred dollars. A few days ago, two thousand copies of a report of the British House of Commons on the subject of railroads was ordered to be printed. Following the language of that resolution, he had moved the printing of another report of that body, which would interest a thousand of our citizens, where that report would interest one. There was not a farmer in

America who would not deem it a treasure. It covered the whole saline kingdom; and those unacquainted with its nature had no more idea of it than a blind man had of the solar rays. It was of the highest value to the farmer and the grazier. It showed the effect of the mineral kingdom upon the animal kingdom; and its views were the results of the wisdom, experience, and first talents of Great Britain. The assertion of the senator, that the bank aided in producing a sound currency, he would disprove by facts and dates. In 1817 the bank went into operation. In three or four years after, forty-four banks were chartered in Kentucky, and forty in Ohio; and the United States Bank, so far from being able to put them down, was on the verge of bankruptcy. With the use of eight millions of public money, it was hardly able, from day to day to sustain itself. Eleven millions of dollars, as he could demonstrate, the people had lost by maintaining the bank during this crisis. But for a waggon load of specie from the mint, as Mr. Cheves informs us, it would have become bankrupt. In addition to this, the use of government deposits, to the extent of eight millions, was necessary to sustain it; and the country lost eleven millions by the diversion of those deposits to this purpose. Congress authorized the purchase of the thirteen millions of three per cents. —at that time, they could have been purchased at sixty-five cents, now they were at ninety-six per cent. This was one item of the amount lost, and the other was the interest on the stock from that time to the present, amounting to six millions more. It was shown by Mr. Cheves that the United States Bank owed its existence to the local banks—to the indulgence and forbearance of the banks of Philadelphia and Boston, notwithstanding its receipt of the silver from Ohio and Kentucky, which drained that country, destroyed its local banks, and threw down the value of every description of its property. The United States Bank currency was called by the senator the poor man's friend. The orders on the branches—these drafts issued in Dan and made payable in Beersheba—had their origin with a Scotchman; and, when their character was discovered, they were stopped as oppressive to the poor; and this bank, which was cried up as the poor man's friend, issued those same orders, in paper so similar to that of the bank notes, that the people could not readily discern the difference between them. It was thought that the people might mistake the signature of the little cashier and the little president for the great cashier and the great president. The stockholders were foreigners, to a great extent—they were lords and ladies—reverend clergymen and military officers. The widows, in whose behalf our sympathy was required, were countess dowagers, and the Barings, some of whom owned more of the stock than was possessed in sixteen States of this Union."

CHAPTER LXVI.

BANK OF THE UNITED STATES—BILL FOR THE RECHARTER REPORTED IN THE SENATE—AND PASSED THAT BODY.

The first bank of the United States, chartered in 1791, was a federal measure, conducted under the lead of General Hamilton—opposed by Mr. Jefferson, Mr. Madison and the republican party; and became a great landmark of party, not merely for the bank itself, but for the latitudinarian construction of the constitution in which it was founded, and the great door which it opened to the discretion of Congress to do what it pleased, under the plea of being "*necessary*" to carry into effect some granted power. The non-renewal of the charter in 1811, was the act of the republican party, then in possession of the government, and taking the opportunity to terminate, upon its own limitation, the existence of an institution, whose creation they had not been able to prevent. The charter of the second bank, in 1816, was the act of the republican party, and to aid them in the administration of the government, and, as such, was opposed by the federal party—not seeming then to understand that, by its instincts, a great moneyed corporation was in sympathy with their own party, and would soon be with it in action —which this bank soon was—and now struggled for a continuation of its existence under the lead of those who had opposed its birth, and against the party which created it. Mr. Webster was a federal leader on both occasions—against the charter, in 1816; for the recharter, in 1832—and in his opening speech in favor of the renewal, according to the bill reported by the Senate's select committee, and in allusion to these reversals of positions, and in justification of his own, he spoke thus, addressing himself to the Vice-President, Mr. Calhoun:

"A considerable portion of the active part of life has elapsed, said Mr. W., since you and I, Mr. President, and three or four other gentlemen, now in the Senate, acted our respective parts in the passage of the bill creating the present Bank of the United States. We have lived to little purpose, as public men, if the experience of this period has not enlightened our judgments, and enabled us to revise our opinions; and to correct any errors into which we may have fallen, if such errors there were, either in regard to the

general utility of a national bank, or the details of its constitution. I trust it will not be unbecoming the occasion, if I allude to your own important agency in that transaction. The bill incorporating the bank, and giving it a constitution, proceeded from a committee of the House of Representatives, of which you were chairman, and was conducted through that House under your distinguished lead. Having recently looked back to the proceedings of that day, I must be permitted to say that I have perused the speech by which the subject was introduced to the consideration of the House, with a revival of the feeling of approbation and pleasure with which I heard it; and I will add, that it would not, perhaps, now, be easy to find a better brief synopsis of those principles of currency and of banking, which, since they spring from the nature of money and of commerce, must be essentially the same, at all times, in all commercial communities, than that speech contains. The other gentlemen now with us in the Senate, all of them, I believe, concurred with the chairman of the committee, and voted for the bill. My own vote was against it. This is a matter of little importance; but it is connected with other circumstances, to which I will, for a moment, advert. The gentlemen with whom I acted on that occasion, had no doubts of the constitutional power of Congress to establish a national bank; nor had we any doubts of the general utility of an institution of that kind. We had, indeed, most of us, voted for a bank, at a preceding session. But the object of our regard was not whatever might be called a bank. We required that it should be established on certain principles, which alone we deemed safe and useful, made subject to certain fixed liabilities, and so guarded that it could neither move voluntarily, nor be moved by others out of its proper sphere of action. The bill, when first introduced, contained features, to which we should never have assented, and we set ourselves accordingly to work with a good deal of zeal, in order to effect sundry amendments. In some of those proposed amendments, the chairman, and those who acted with him, finally concurred. Others they opposed. The result was, that several most important amendments, as I thought, prevailed. But there still remained, in my opinion, objections to the bill, which justified a persevering opposition till they should be removed."

He spoke forcibly and justly against the evils of paper money, and a depreciated currency, meaning the debased issues of the local banks, for the cure of which the national bank was to be the instrument—not foreseeing that this great bank was itself to be the most striking exemplification of all the evils which he depicted. He said:

"A disordered currency is one of the greatest of political evils. It undermines the virtues necessary for the support of the social system, and encourages propensities destructive of its happiness. It wars against industry, frugality, and economy; and it fosters the evil spirits of extravagance and speculation. Of all the contrivances for cheating the laboring classes of mankind, none has been more effectual than that which deludes them with paper money. This is the most effectual of inventions to fertilize the rich man's field, by the sweat of the poor man's brow. Ordinary tyranny, oppression, excessive taxation, these bear lightly on the happiness of the mass of the community, compared with fraudulent currencies, and the robberies committed by depreciated paper. Our own history has recorded for our instruction enough, and more than enough, of the demoralizing tendency, the injustice, and the intolerable oppression on the virtuous and well disposed, of a degraded paper currency, authorized by law, or any way countenanced by government."

He also spoke truly on the subject of the small quantity of silver currency in the United States—only some twenty-two millions—and not a particle of gold; and deprecated the small bank note currency as the cause of that evil. He said:

"The paper circulation of the country is, at this time, probably seventy-five or eighty millions of dollars. Of specie we may have twenty or twenty-two millions: and this, principally, in masses in the vaults of the banks. Now, sir, this is a state of things which, in my judgment, leads constantly to overtrading, and to the consequent excesses and revulsions which so often disturb the regular course of commercial affairs.

"Why have we so small an amount of specie in circulation? Certainly the only reason is, because we do not require more. We have but to ask its presence, and it would return. But we voluntarily banish it by the great amount of small bank notes. In most of the States the banks issue notes of all low denominations, down even to a single dollar. How is it possible, under such circumstances, to retain specie in circulation? All experience shows it to be impossible. The paper will take the place of the gold and silver. When Mr. Pitt, in the year 1797, proposed in Parliament to authorize the Bank of England to issue one pound notes, Mr. Burke lay sick at Bath of an illness from which he never recovered; and he is said to have written to the late Mr. Canning, 'Tell Mr. Pitt that if he consents to the issuing of one pound notes, he must never expect to see guinea again.'"

The bill provided that a bonus of $500,000 in three equal annual instalments should be paid by the bank to the United States for its

exclusive privileges: Mr. Webster moved to modify the section, so as to spread the payment over the entire term of the bank's proposed existence—$150,000 a year for fifteen years. I was opposed both to the bonus, and the exclusive privilege, and said:

"The proper compensation for the bank to make, provided this exclusive privilege was sold to it, would be to reduce the rate of interest on loans and discounts. A reduction of interest would be felt by the people; the payment of a bonus would not be felt by them. It would come into the treasury, and probably be lavished immediately on some scheme, possibly unconstitutional in its nature, and sectional in its application. He was not in favor of any scheme for getting money into the treasury at present. The difficulty lay the other way. The struggle now was to keep money out of the treasury,—to prevent the accumulation of a surplus; and the reception of this bonus would go to aggravate that difficulty, by increasing that surplus. Kings might receive bonuses for selling exclusive privileges to monopolizing companies. In that case his subjects would bear the loss, and he would receive the profit; but, in a republic, it was incomprehensible that the people should sell to a company the privilege of making money out of themselves. He was opposed to the grant of an exclusive privilege; he was opposed to the sale of privileges; but if granted, or sold, he was in favor of receiving the price in the way that would be most beneficial to the whole body of the people; and, in this case, a reduction of interest would best accomplish that object. A bank, which had the benefit of the credit and revenue of the United States to bank upon, could well afford to make loans and discounts for less than six per centum. Five per centum would be high interest for such a bank; and he had no doubt, if time was allowed for the application, that applications enough would be made to take the charter upon these terms."

I opposed action on the subject at this session. The bank charter had yet four years to run, and two years after that to remain in force for winding up its affairs; in all, six years before the dissolution of the corporation: and this would remit the final decision to the Congress which would sit between 1836 and 1838, and there was not only to be a new Congress elected before that time, but a new Congress under a new apportionment of the representation, in which there would be a great augmentation of members, and especially in the West, where the operation of the present bank was most injurious. The stockholders had not applied for the recharter at this session: that was the act of the directors and politicians, or rather of the politicians and directors; for the former governed the decision. The stockholders in their meeting last September only authorized the president and directors to apply at any time before the next triennial meeting—at any time within three years; and that would carry the application to the right time. I, therefore, inveighed against the present application, and insisted that:

"Many reasons oppose the final action of Congress upon this subject at the present time. We are exhausted with the tedium, if not with the labors of a six months' session. Our hearts and minds must be at home, though our bodies are here. Mentally and bodily we are unable to give the attention and consideration to this question, which the magnitude of its principles, the extent and variety of its details, demand from us. Other subjects of more immediate and pressing interest must be thrown aside, to make way for it. The reduction of the price of the public lands, for which the new States have been petitioning for so many years, and the modification of the tariff, the continuance of which seems to be weakening the cement which binds this Union together, must be postponed, and possibly lost for the session, if we go on with the bank question. Why has the tariff been dropped in the Senate? Every one recollects the haste with which that subject was taken up in this chamber; how it was pushed to a certain point; and how suddenly and gently it has given way to the bank bill! Is there any union of interest—any conjunction of forces—any combined plan of action—any alliance, offensive or defensive, between the United States Bank and the American system? Certainly they enter the field together, one here, the other yonder (pointing to the House of Representatives), and leaving a clear stage to each other, they press at once upon both wings, and announce a perfect non-interference, if not mutual aid, in the double victory which is to be achieved. Why have the two bills reported by the Committee on Manufactures, and for taking up which notices have been given: why are they so suddenly, so easily, so gently, abandoned? Why is the land bill, reported by the same committee, and a pledge given to call it up when the Committee on Public Lands had made their counter report, also suffered to sleep on the table? The counter report is made; it is printed; it lies on every table; why not go on with the lands, when the settlement of the question of the amount of revenue to be derived from that source precedes the tariff question, and must be settled before we can know how much revenue should be raised from imports.

"An unfinished investigation presented another reason for delaying the final action of Congress on this subject. The House of Representa-

tives had appointed a committee to investigate the affairs of the bank; they had proceeded to the limit of the time allotted them—had reported adversely to the bank—and especially against the renewal of the charter at this session; and had argued the necessity of further examinations. Would the Senate proceed while this unfinished investigation was depending in the other end of the building? Would they act so as to limit the investigation to the few weeks which were allowed to the committee, when we have from four to six years on hand within which to make it? The reports of this committee, to the amount of some 15,000 copies had been ordered to be printed by the two Houses, to be distributed among the people. For what purpose? Certainly that the people might read them—make up their minds upon their contents—and communicate their sentiments to their representatives. But these reports are not yet distributed; they are not yet read by the people; and why order this distribution without waiting for its effect, when there is so much time on hand? Why treat the people with this mockery of a pretended consultation—this illusive reference to their judgment—while proceeding to act before they can read what we have sent to them? Nay, more; the very documents upon which the reports are founded are yet unprinted! The Senate is actually pushed into this discussion without having seen the evidence which has been collected by the investigating committee, and which the Senate itself has ordered to be printed for the information of its members.

"The decision of this question does not belong to this Congress, but to the Congress to be elected under the new census of 1830. It looked to him like usurpation for this Congress to seize upon a question of this magnitude, which required no decision until the new and full representation of the people shall come in; and which, if decided now, though prematurely and by usurpation, is irrevocable, although it cannot take effect until 1836;—that is to say, until three years after the new and full representation would be in power. What Congress is his? It is the apportionment of 1820, formed on a population of ten millions. It is just going out of existence. A new Congress, apportioned upon a representation of thirteen millions, is already provided for by law; and after the 4th of March next—within nine months from this day—will be in power, and entitled to the seats in which we sit. That Congress will contain thirty members more than the present one. Three millions of people—a number equal to that which made the revolution—are now unrepresented, who will be then represented. The West alone—that section of the Union which suffers most from the depredations of the bank—loses twenty votes! In that section alone a million of people lose their voice in the decision of this great question. And why? What excuse? What necessity? What plea for this sudden haste which interrupts an unfinished investigation—sets aside the immediate business of the people—and usurps the rights of our successors? No plea in the world, except that a gigantic moneyed institution refuses to wait, and must have her imperial wishes immediately gratified. If a charter was to be granted, it should be done with as little invasion of the rights of posterity—with as little encroachment upon the privileges of our successors—as possible. Once in ten years, and that at the commencement of each full representation under a new census, would be the most appropriate time; and then charters should be for ten, and not twenty years.

"Mr. B. had nothing to do with motives. He neither preferred accusations, nor pronounced absolutions: but it was impossible to shut his eyes upon facts, and to close up his reason against the induction of inevitable inferences. The presidental election was at hand;—it would come in four months;—and here was a question which, in the opinion of all, must affect that election—in the opinion of some, may decide it—which is pressed on for decision four years before it is necessary to decide it, and six years before it ought to be decided. Why this sudden pressure? Is it to throw the bank bill into the hands of the President, to solve, by a practical reference, the disputed problem of the executive veto, and to place the President under a cross fire from the opposite banks of the Potomac River? He [Mr. B.] knew nothing about that veto, but he knew something of human nature, and something of the rights of the people under our representative form of government; and he would be free to say that a veto which would stop the encroachment of a minority of Congress upon the rights of its successors—which would arrest a frightful act of legislative usurpation—which would retrieve for the people the right of deliberation, and of action—which would arrest the overwhelming progress of a gigantic moneyed institution—which would prevent Ohio from being deprived of five votes, Indiana from losing four, Tennessee four, Illinois two, Alabama two, Kentucky, Mississippi and Missouri one each—which would lose six votes to New-York and two to Pennsylvania; a veto, in short, which would protect the rights of three millions of people, now unrepresented in Congress, would be an act of constitutional justice to the people, which ought to raise the President, and certainly would raise him, to a higher degree of favor in the estimation of every republican citizen of the community than he now enjoyed. By passing on the charter now, Congress would lose all check and control over the institution for the four years it had yet to run. The pendency of the question was a rod over its head for these four years; to decide the question now, is to free it from all restraint, and turn it loose to play what part it pleased in all our affairs—elections, State, federal, presidential.

"Mr. B. turned to the example of England,

and begged the republican Senate of the United States to take a lesson from the monarchial parliament of Great Britain. We copied their evil ways; why not their good ones? We copied our bank charter from theirs; why not imitate them in their improvements upon their own work? At first the bank had a monopoly resulting from an exclusive privilege: that is now denied. Formerly the charter was renewed several years before it was out: it now has less than a year to run, and is not yet rechartered."

A motion was made by Mr. Moore of Alabama, declaratory of the right of the States to admit, or deny the establishment of branches of the mother bank within their limits, and to tax their loans and issues, if she chose to admit them: and in support of that motion Mr. Benton made this speech:

"The amendment offered by the senator from Alabama [Mr. Moore] was declaratory of the rights of the States, both to refuse admission of these branch banks into their limits, and to tax them, like other property, if admitted: if this amendment was struck out, it was tantamount to a legislative declaration that no such rights existed, and would operate as a confirmation of the decision of the Supreme Court to that effect. It is to no purpose to say that the rejection of the amendment will leave the charter silent upon the subject; and the rights of the States, whatsoever they may be, will remain in full force. That is the state of the existing charter. It is silent upon the subject of State taxation; and in that silence the Supreme Court has spoken, and nullified the rights of the States. That court has decided that the Bank of the United States is independent of State legislation! consequently, that she may send branches into the States in defiance of their laws, and keep them there without the payment of tax. This is the decision; and the decision of the court is the law of the land; so that, if no declaratory clause is put into the charter, it cannot be said that the new charter will be silent, as the old one was. The voice of the Supreme Court is now heard in that silence, proclaiming the supremacy of the bank, and the degradation of the States; and, unless we interpose now to countervail that voice by a legislative declaration, it will be impossible for the States to resit it, except by measures which no one wishes to contemplate.

"Mr. B. regretted that he had not seen in the papers any report of the argument of the senator from Virginia [Mr. Tazewell] in vindication of the right of the States to tax these branches. It was an argument brief, powerful, and conclusive—lucid as a sunbeam, direct as an arrow, and mortal as the stroke of fate to the adversary speakers. Since the delivery of that argument, they had sat in dumb show, silent as the grave, mute as the dead, and presenting to our imaginations the realization of the Abbé Sieyes's famous conception of a dumb legislature. Before the States surrendered a portion of their sovereignity to create this federal government, they possessed the unlimited power of taxation; in the act of the surrender, which is the constitution, they abridged this unlimited right but in two particulars—exports and imports—which they agreed no longer to tax, and therefore retained the taxing power entire over all other subjects. This was the substance of the argument which dumbfounded the adversary; and the distinction which was attempted to be set up between tangible and intangible, visible and invisible, objects of taxation; between franchises and privileges on one side, and material substances on the other, was so completely blasted and annihilated by one additional stroke of lightning, that the fathers of the distinction really believed that they had never made it! and sung their palinodes in the face of the House.

"The argument that these branches are necessary to enable the federal government to carry on its fiscal operations, and, therefore, ought to be independent of State legislation, is answered and expunged by a matter of fact, namely, that Congress itself has determined otherwise, and that in the very charter of the bank. The charter limits the right of the federal government to the establishment of a single branch, and that one in the District of Columbia! The branch at this place, and the parent bank at Philadelphia, are all that the federal government has stipulated for. All beyond that, is left to the bank itself; to establish branches in the States or not, as it suited its own interest; or to employ State banks, with the approbation of the Secretary of the Treasury, to do the business of the branches for the United States. Congress is contented with State banks to do the business of the branches in the States; and, therefore, authorizes the very case which gentlemen apprehend and so loudly deprecate, that New-York may refuse her assent to the continuance of the branches within her limits, and send the public deposits to the State banks. This is what the charter contemplates. Look at the charter; see the fourteenth article of the constitution of the bank; it makes it optionary with the directors of the bank to establish branches in such States as they shall think fit, with the alternative of using State banks as their substitutes in States in which they do not choose to establish branches. This brings the establishment of branches to a private affair, a mere question of profit and loss to the bank itself; and cuts up by the roots the whole argument of the necessity of these branches to the fiscal operations of the federal government. The establishment of branches in the States is, then, a private concern, and presents this question: Shall non-residents and aliens —even alien enemies, for such they may be— have a right to carry on the trade of banking within the limits of the States, without their consent, without liability to taxation, and with-

out amenability to State legislation? The suggestion that the United States owns an interest in this bank, is of no avail. If she owned it all, it would still be subject to taxation, like all other property is which she holds in the States. The lands which she had obtained from individuals in satisfaction of debts, were all subject to taxation; the public lands which she held by grants from the States, or purchases from foreign powers, were only exempted from taxation by virtue of compacts, and the payment of five per centum on the proceeds of the sales for that exemption."

The motion of Mr. Moore was rejected, and by the usual majority.

Mr. Benton then moved to strike out so much of the bill as gave to the bank exclusive privileges, and to insert a provision making the stockholders liable for the debts of the institution; and in support of his motion quoted the case of the three Scottish banks which had no exclusive privilege, and in which the stockholders were liable, and the superior excellence of which over the Bank of England was admitted and declared by English statesmen. He said:

"The three Scottish banks had held each other in check, had proceeded moderately in all their operations, conducted their business regularly and prudently, and always kept themselves in a condition to face their creditors; while the single English bank, having no check from rival institutions, ran riot in the wantonness of its own unbridled power, deluging the country, when it pleased, with paper, and filling it with speculation and extravagance; drawing in again when it pleased, and filling it with bankruptcy and pauperism; often transcending its limits, and twice stopping payment, and once for a period of twenty years. There can be no question of the incomparable superiority of the Scottish banking system over the English banking system, even in a monarchy; and this has been officially announced to the Bank of England by the British ministry, as far back as the year 1826, with the authentic declaration that the English system of banking must be assimilated to the Scottish system, and that her exclusive privilege could never be renewed. This was done in a correspondence between the Earl of Liverpool, first Lord of the Treasury, and Mr. Robinson, Chancellor of the Exchequer, on one side, and the Governor and Deputy Governor of the Bank of England on the other. In their letter of the 18th January, 1826, the two ministers, adverting to the fact of the stoppage of payment, and repeated convulsions of the Bank of England, while the Scottish banks had been wholly free from such calamities, declared their conviction that there existed an unsound and delusive system of banking in England, and a sound and solid system in Scotland! And they gave the official assurance of the British government, that neither His Majesty's ministers, nor parliament, would ever agree to renew the charter of the Bank of England with their exclusive privileges! Exclusive privileges, they said, were out of fashion! Nor is it renewed to this day, though the charter is within nine months of its expiration!

"In the peculiar excellence of the Scottish plan, lies a few plain and obvious principles, closely related to republican ideas. First. No exclusive privileges. Secondly. Three independent banks to check and control each other, and diffuse their benefits, instead of one to do as it pleased, and monopolize the moneyed power. Thirdly. The liability of each stockholder for the amount of his stock, on the failure of the bank to redeem its notes in specie. Fourthly. The payment of a moderate interest to depositors. Upon these few plain principles, all of them founded in republican notions, equal rights, and equal justice, the Scottish banks have advanced themselves to the first rank in Europe, have eclipsed the Bank of England, and caused it to be condemned in its own country, and have made themselves the model of all future banking institutions in Great Britain. And now, it would be a curious political phenomenon, and might give rise to some interesting speculations on the advance of free principles in England, and their decline in America, if the Scottish republican plan of banking should be rejected here, while preferred there; and the British monarchial plan, which is condemned there, should be perpetuated here! and this double incongruity committed without necessity, without excuse, without giving the people time to consider, and to communicate their sentiments to their constituents, when there is four, if not six years, for them to consider the subject before final decision is required!"

The clause for continuing the exclusive privilege of the bank, was warmly contested in the Senate, and arguments against it drawn from the nature of our government, as well as from the example of the British parliament, which had granted the monopoly to the Bank of England in her previous charters, and denied it on the last renewal. It owed its origin in England to the high tory times of Queen Anne, and its extinction to the liberal spirit of the present century. Mr. Benton was the chief speaker on this point; and—

"Pointed out the clauses in the charter which granted the exclusive privilege, and imposed the restriction, which it was the object of his motion to abolish; and read a part of the 21st section, which enacted that no other bank should be established by any future law of the United States, during the continuance of that charter, and which pledged the faith of the United States

to the observance of the monopoly thereby created. He said the privilege of banking, here granted, was an exclusive privilege, a monopoly, and an invasion of the rights of all future Congresses, as well as of the rights of all citizens of the Union, for the term the charter had to run, and which might be considered perpetual; as this was the last time that the people could ever make head against the new political power which raised itself in the form of the bank to overbalance every other power in the government. This exclusive privilege is contrary to the genius of our government, which is a government of equal rights, and not of exclusive privileges; and it is clearly unauthorized by the constitution, which only admits of exclusive privileges in two solitary, specified cases, and each of these founded upon a natural right, the case of authors and inventors; to whom Congress is authorized to grant, for a limited time, the exclusive privilege of selling their own writings and discoveries. But in the case of this charter there is no natural right, and it may be well said there is no limited time; and the monopoly is far more glaring and indefensible now than when first granted; for then the charter was not granted to any particular set of individuals, but lay open to all to subscribe to it; but now it is to be continued to a particular set, and many of them foreigners, and all of whom, or their assignees, had already enjoyed the privilege for twenty years. If this company succeeds now in getting their monopoly continued for fifteen years, they will so intrench themselves in wealth and power, that they will be enabled to perpetuate their charter, and transmit it as a private inheritance to their posterity. Our government delights in rotation of office; all officers, from the highest to the lowest, are amenable to that principle; no one is suffered to remain in power thirty-five years; and why should one company have the command of the moneyed power of America for that long period? Can it be the wish of any person to establish an oligarchy with unbounded wealth and perpetual existence, to lay the foundation for a nobility and monarchy in this America!

"The restriction upon future Congresses is at war with every principle of constitutional right and legislative equality. If the constitution has given to one Congress the right to charter banks, it has given it to every one. If this Congress has a right to establish a bank, every other Congress has. The power to tie the hands of our successors is nowhere given to us; what we can do our successors can; a legislative body is always equal to itself. To make, and to amend; to do, and to undo; is the prerogative of each. But here the attempt is to do what we ourselves cannot amend—what our successors cannot amend—and what our successors are forbidden to imitate, or to do in any form. This shows the danger of assuming implied powers. If the power to establish a national bank had been expressly granted, then the exercise of that power, being once exerted, would be exhausted, and no further legislation would remain to be done; but this power is now assumed upon construction, after having been twice rejected, in the convention which framed the constitution, and is, therefore, without limitation as to number or character. Mr. Madison was express in his opinions in the year 1791, that, if there was one bank chartered, there ought to be several! The genius of the British monarchy, he said, favored the concentration of wealth and power. In America the genius of the government required the diffusion of wealth and power. The establishment of branches did not satisfy the principle of diffusion. Several independent banks alone could do it. The branches, instead of lessening the wealth and power of the single institution, greatly increased both, by giving to the great central parent bank an organization and ramification which pervaded the whole Union, drawing wealth from every part, and subjecting every part to the operations, political and pecuniary, of the central institution. But this restriction ties up the hands of Congress from granting other charters. Behave as it may—plunge into all elections—convulse the country with expansions and contractions of paper currency—fail in its ability to help the merchants to pay their bonds—stop payment, and leave the government no option but to receive its dishonored notes in revenue payments—and still it would be secure of its monopoly; the hands of all future Congresses would be tied up; and no rival or additional banks could be established, to hold it in check, or to supply its place.

"Is this the Congress to do these things? Is this the Congress to impose restrictions upon the power of their successors? Is this the Congress to tie the hands of all Congresses till the year 1851? In nine months this Congress is defunct! A new and full representation of the people will come into power. Thirty additional members will be in the House of Representatives; three millions of additional people will be represented. The renewed charter is not to take effect till three years after this full representation is in power! And are we to forestall and anticipate them? Take their proper business out of their hands—snatch the sceptre of legislation from them—do an act which we cannot amend—which they cannot amend—which is irrevocable and intangible; and, to crown this act of usurpation, deliberately set about tying the hands, and imposing a restriction upon a Congress equal to us in constitutional power, superior to us in representative numbers, and better entitled to act upon the subject, because the present charter is not to expire, nor the new one to take effect, until three years after the new Congress shall be in power! It is in vain to say that this reasoning would apply to other legislative measures, and require the postponement of the land bill and the tariff bill. Both these bills require immediate decision, and therein differ from the bank

bill, which requires no decision for three years to come. But the difference is greater still; for the land bill and tariff bill are ordinary acts of legislation, open to amendment, or repeal, by ourselves and successors; but the charter is to be irrevocable, unamendable, binding upon all Congresses till the year 1851. This is rank usurpation; and if perpetrated by Congress, and afterwards arrested by an Executive veto, the President will become the true representative of the people, the faithful defender of their rights, and the defender of the rights of the new Congress which will assemble under the new census.

"Mr. B. concluded his remarks by showing the origin, and also the extinction, of the doctrine in England. A tory parliament in the reign of Queen Anne had first granted an exclusive privilege to the Bank of England, and imposed a restriction upon the right of future parliaments to establish another bank; and the ministry of 1826 had condemned this doctrine, and proscribed its continuance in England. The charter granted to the old Bank of the United States and to the existing bank had copied those obnoxious clauses; but now that they were condemned in England as too unjust and odious for that monarchial country, they ought certainly to be discarded in this republic, where equal rights was the vital principle and ruling feature of all our institutions."

All the amendments proposed by the opponents of the bank being inexorably voted down, after a debate which, with some cessations, continued from January to June, the final vote was taken, several senators first taking occasion to show they had no interest in the institution. Mr. Benton had seen the names of some members in the list of stockholders; and early in the debate had required that the rule of parliamentary law should be read, which excludes the interested member from voting, and expunges his vote if he does, and his interest is afterwards discovered. Mr. Dallas said that he had sold his stock in the institution as soon as it was known that the question of the recharter would come before him: Mr. Silsbee said that he had disposed of his interest before the question came before Congress: Mr. Webster said that the insertion of his name in the list of stockholders was a mistake in a clerk of the bank. The vote was then taken on the passage of the bill, and stood: YEAS: Messrs. Bell, of New Hampshire; Buckner, of Missouri; Chambers, of Maryland; Clay, of Kentucky; Clayton, of Delaware; Dallas of Pennsylvania; Ewing, of Ohio; Foot, of Connecticut; Frelinghuysen, of New Jersey; Hendricks, of Indiana; Holmes, of Maine; Josiah S. Johnston, of Louisiana; Knight, of Rhode Island; Naudain, of Delaware; Poindexter, of Mississippi; Prentiss, of Vermont; Robbins, of Rhode Island; Robinson, of Illinois; Ruggles, of Ohio; Seymour, of Vermont; Silsbee, of Massachusetts; Smith (Gen. Samuel), of Maryland; Sprague, of Maine; Tipton, of Indiana Tomlinson, of Connecticut; Waggaman, of Louisiana; Webster, of Massachusetts; and Wilkins, of Pennsylvania: 28. NAYS: Messrs. Benton, of Missouri; Bibb, of Kentucky; Brown, of North Carolina; Dickerson, of New Jersey; Dudley, of New-York; Ellis, of Mississippi; Forsyth, of Georgia; Grundy, of Tennessee; Hayne, of South Carolina; Hill, of New Hampshire; Kane, of Illinois; King, of Alabama; Mangum, of North Carolina; Marcy, of New-York; Miller, of South Carolina; Moore, of Alabama; Tazewell, of Virginia; Troup, of Georgia; Tyler, of Virginia; Hugh L. White, of Tennessee: 20.

CHAPTER LXVII.

BANK OF THE UNITED STATES—BILL FOR THE RENEWED CHARTER PASSED IN THE HOUSE OF REPRESENTATIVES.

THE bill which had passed the Senate, after a long and arduous contest, quickly passed the House, with little or no contest at all. The session was near its end; members were wearied; the result foreseen by every body—that the bill would pass—the veto be applied—and the whole question of charter or no charter go before the people in the question of the presidential election. Some attempts were made by the adversaries of the bill to amend it, by offering amendments, similar to those which had been offered in the Senate; but with the same result in one House as in the other. They were all voted down by an inexorable majority; and it was evident that the contest was political, and relied upon by one party to bring them into power; and deprecated by the other as the flagrant prostitution of a great moneyed corporation to partisan and election purposes. The question was soon put; and decided by the following votes:

YEAS.—Messrs. Adams, C. Allan, H. Allen, Allison, Appleton, Armstrong, Arnold, Ashley Babcock, Banks, N. Barber, J. S. Barbour, Bar-

ringer, Barstow, I. C. Bates, Briggs, Bucher, Bullard, Burd, Burges, Choate, Collier, L. Condict, S. Condit, E. Cooke, B. Cooke, Cooper, Corwin, Coulter, Craig, Crane, Crawford, Creighton, Daniel, J. Davis, Dearborn, Denny, Dewart, Doddridge, Drayton, Ellsworth, G. Evans, J. Evans, E. Everett, H. Everett, Ford, Gilmore, Grennell, Hodges, Heister, Horn, Hughes, Huntington, Ihrie, Ingersoll, Irvin, Isacks, Jenifer, Kendall, H. King, Kerr, Letcher, Mann, Marshall, Maxwell, McCoy, McDuffie, McKennan, Mercer, Milligan, Newton, Pearce, Pendleton, Pitcher, Potts, Randolph, J. Reed, Root, Russel, Semmes, W. B. Shepard, A. H. Shepperd, Slade, Smith, Southard, Spence, Stanberry, Stephens, Stewart, Storrs, Sutherland, Taylor, P. Thomas, Tompkins, Tracy, Vance, Verplanck, Vinton, Washington, Watmough, E. Whittlesey, F. Whittlesey, E. D. White, Wickliffe, Williams, Young.—106.

Nays.—Messrs. Adair, Alexander, Anderson, Archer, J. Bates, Beardsley, Bell, Bergen, Bethune, James Blair, John Blair, Bouck, Bouldin, Branch, Cambreleng, Carr, Chandler, Chinn, Claiborne, Clay, Clayton, Coke, Conner, W. R. Davis, Dayan, Doubleday, Felder, Fitzgerald, Foster, Gaither, Gordon, Griffin, T. H. Hall, W. Hall, Hammons, Harper, Hawes, Hawkins, Hoffman, Hogan, Holland, Howard, Hubbard, Jarvis, Cave Johnson, Kavanagh, Kennon, A. King, J. King, Lamar, Leavitt, Lecompte, Lewis, Lyon, Mardis, Mason, McCarty, McIntire, McKay, Mitchell, Newnan, Nuckolls, Patton, Pierson, Polk, E. C. Reed, Rencher, Roane, Soule, Speight, Standifer, F. Thomas, W. Thompson, J. Thomson, Ward, Wardwell, Wayne, Weeks, Wheeler, C. P. White, Wilde, Worthington.—84.

CHAPTER LXVIII.

THE VETO.

The act which had passed the two Houses for the renewal of the bank charter, was presented to the President on the 4th day of July, and returned by him to the House in which it originated, on the 10th, with his objections. His first objection was to the exclusive privileges which it granted to corporators who had already enjoyed them, the great value of these privileges, and the inadequacy of the sum to be paid for them. He said:

"Every monopoly, and all exclusive privileges, are granted at the expense of the public, which ought to receive a fair equivalent. The many millions which this act proposes to bestow on the stockholders of the existing bank, must come directly or indirectly out of the earnings of the American people. It is due to them, therefore, if their government sell monopolies and exclusive privileges, that they should at least exact for them as much as they are worth in open market. The value of the monopoly in this case may be correctly ascertained. The twenty-eight millions of stock would probably be at an advance of fifty per cent., and command, in market, at least forty-two millions of dollars, subject to the payment of the present loans. The present value of the monopoly, therefore, is seventeen millions of dollars, and this the act proposes to sell for three millions, payable in fifteen annual instalments of $200,000 each.

"It is not conceivable how the present stockholders can have any claim to the special favor of the government. The present corporation has enjoyed its monopoly during the period stipulated in the original contract. If we must have such a corporation, why should not the government sell out the whole stock, and thus secure to the people the full market value of the privileges granted? Why should not Congress create and sell the twenty-eight millions of stock, incorporating the purchasers with all the powers and privileges secured in this act, and putting the premium upon the sales into the treasury?

"But this act does not permit competition in the purchase of this monopoly. It seems to be predicated on the erroneous idea that the present stockholders have a prescriptive right, not only to the favor, but to the bounty of the government. It appears that more than a fourth part of the stock is held by foreigners, and the residue is held by a few hundred of our citizens, chiefly of the richest class. For their benefit does this act exclude the whole American people from competition in the purchase of this monopoly, and dispose of it for many millions less than it is worth. This seems the less excusable, because some of our citizens, not now stockholders, petitioned that the door of competition might be opened, and offered to take a charter on terms much more favorable to the government and country.

"But this proposition, although made by men whose aggregate wealth is believed to be equal to all the private stock in the existing bank, has been set aside, and the bounty of our government is proposed to be again bestowed on the few who have been fortunate enough to secure the stock, and at this moment wield the power of the existing institution. I cannot perceive the justice or policy of this course. If our government must sell monopolies, it would seem to be its duty to take nothing less than their full value; and if gratuities must be made once in fifteen or twenty years, let them not be bestowed on the subjects of a foreign government, nor upon a designated or favored class of men in our own country. It is but justice and good policy, as far as the nature of the case will admit, to confine our favors to our own fellow-citizens, and let each in his turn enjoy an oppor

tunity to profit by our bounty. In the bearings of the act before me upon these points, I find ample reasons why it should not become a law."

The President objected to the constitutionality of the bank, and argued against the force of precedents in this case, and against the applicability and the decision of the Supreme Court in its favor. That decision was in the case of the Maryland branch, and sustained it upon an argument which carries error, in point of fact, upon its face. The ground of the decision was, that the bank was "necessary" to the successful conducting of the "fiscal operations" of the government; and that Congress was the judge of that necessity. Upon this ground the Maryland branch, and every branch except the one in the District of Columbia, was without the constitutional warrant which the court required. Congress had given no judgment in favor of its necessity — but the contrary — a judgment against it: for after providing for the mother bank at Philadelphia, and one branch at Washington City, the establishment of all other branches was referred to the judgment of the bank itself, or to circumstances over which Congress had no control, as the request of a State legislature founded upon a subscription of 2000 shares within the State—with a dispensation in favor of substituting local banks in places where the Secretary of the Treasury, and the directors of the national bank should agree. All this was contained in the fourteenth fundamental article of the constitution of the corporation—which says:

"The directors of said corporation shall establish a competent office of discount and deposit in the District of Columbia, whenever any law of the United States shall require such an establishment: also one such office of discount and deposit in any State in which two thousand shares shall have been subscribed or may be held, whenever, upon application of the legislature of such State, Congress may, by law, require the same: *Provided*, the directors aforesaid shall not be bound to establish such office before the whole of the capital of the bank shall be paid up. And it shall be lawful for the directors of the corporation to establish offices of discount and deposit where they think fit, within the United States or the territories thereof, and to commit the management of the said, and the business thereof, respectively to such persons, and under such regulations, as they shall deem proper, not being contrary to the laws or the constitution of the bank. Or, instead of establishing such offices, it shall be lawful for the directors of the said corporation, from time to time, to employ any other bank or banks, to be first approved by the Secretary of the Treasury, at any place or places that they may deem safe and proper, to manage and transact the business proposed aforesaid, other than for the purposes of discount; to be managed and transacted by such offices, under such agreements, and subject to such regulations as they shall deem just and proper."

These are the words of the fourteenth fundamental article of the constitution of the bank, and the conduct of the corporation in establishing its branches was in accordance with this article. They placed them where they pleased—at first, governed wholly by the question of profit and loss to itself—afterwards, and when it was seen that the renewed charter was to be resisted by the members from some States, governed by the political consideration of creating an interest to defeat the election, or control the action of the dissenting members. Thus it was in my own case. A branch in St. Louis was refused to the application of the business community—established afterwards to govern me. And thus, it is seen the Supreme Court was in error—that the judgment of Congress in favor of the "necessity" of branches only extended to one in the District of Columbia; and as for the bank itself, the argument in its favor and upon which the Supreme Court made its decision, was an argument which made the constitutionality of a measure dependent, not upon the words of the constitution, but upon the opinion of Congress for the time being upon the question of the "necessity" of a particular measure—a question subject to receive different decisions from Congress at different times—which actually received different decisions in 1791, 1811, and 1816: and, we may now add the decision of experience since 1836—during which term we have had no national bank; and the fiscal business of the government, as well as the commercial and trading business of the country, has been carried on with a degree of success never equalled in the time of the existence of the national bank. I, therefore, believe that the President was well warranted in challenging both the validity of the decision of the Supreme Court, and the obligatory force of precedents: which he did, as follows:

"It is maintained by the advocates of the bank, that its constitutionality, in all its features, ought to be considered as settled by precedent, and by the decision of the Supreme

Court. To this conclusion I cannot assent. Mere precedence is a dangerous source of authority, and should not be regarded as deciding questions of constitutional power, except where the acquiescence of the people and the States can be considered as well settled. So far from this being the case on this subject, an argument against the bank might be based on precedent. One Congress, in 1791, decided in favor of a bank; another, in 1811, decided against it. One Congress, in 1815, decided against a bank; another, in 1816, decided in its favor. Prior to the present Congress, therefore, the precedents drawn from that source were equal. If we resort to the States, the expressions of legislative, judicial, and executive opinions against the bank have been, probably, to those in its favor, as four to one. There is nothing in precedent, therefore, which, if its authority were admitted, ought to weigh in favor of the act before me.

"If the opinion of the Supreme Court covered the whole ground of this act, it ought not to control the co-ordinate authorities of this government. The Congress, the Executive, and the court, must each for itself be guided by its own opinion of the constitution. Each public officer who takes an oath to support the constitution, swears that he will support it as he understands it, and not as it is understood by others. It is as much the duty of the House of Representatives, of the Senate, and of the President, to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval, as it is of the supreme judges, when it may be brought before them for judicial decision. The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges; and on that point the President is independent of both. The authority of the Supreme Court must not, therefore, be permitted to control the Congress, or the Executive, when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve.

"But in the case relied upon, the Supreme Court have not decided that all the features of this corporation are compatible with the constitution. It is true that the court have said that the law incorporating the bank is a constitutional exercise of power by Congress. But taking into view the whole opinion of the court, and the reasoning by which they have come to that conclusion, I understand them to have decided that, inasmuch as a bank is an appropriate means for carrying into effect the enumerated powers of the general government, therefore the law incorporating it is in accordance with that provision of the constitution which declares that Congress shall have power 'to make all laws which shall be necessary and proper for carrying those powers into execution.' Having satisfied themselves that the word 'necessary,' in the constitution, means 'needful,' 'requisite,' 'essential,' 'conducive to,' and that 'a bank' is a convenient, a useful, and essential instrument in the prosecution of the government's 'fiscal operations,' they conclude that to 'use one must be within the discretion of Congress;' and that 'the act to incorporate the Bank of the United States, is a law made in pursuance of the constitution.' 'But,' say they, 'where the law is not prohibited, and is really calculated to effect any of the objects intrusted to the government, to undertake here to inquire into the degree of its necessity, would be to pass the line which circumscribes the judicial department, and to tread on legislative ground.'

"The principle, here affirmed, is, that the 'degree of its necessity,' involving all the details of a banking institution, is a question exclusively for legislative consideration. A bank is constitutional; but it is the province of the legislature to determine whether this or that particular power, privilege, or exemption, is 'necessary and proper' to enable the bank to discharge its duties to the government; and from their decision there is no appeal to the courts of justice. Under the decision of the Supreme Court, therefore, it is the exclusive province of Congress and the President to decide whether the particular features of this act are 'necessary and proper,' in order to enable the bank to perform, conveniently and efficiently, the public duties assigned to it as a fiscal agent, and therefore constitutional; or unnecessary and improper, and therefore unconstitutional."

With regard to the misconduct of the institution, both in conducting its business and in resisting investigation, the message spoke the general sentiment of the disinterested country when it said:

"Suspicions are entertained, and charges are made, of gross abuses and violations of its charter. An investigation unwillingly conceded, and so restricted in time as necessarily to make it incomplete and unsatisfactory, discloses enough to excite suspicion and alarm. In the practices of the principal bank, partially unveiled in the absence of important witnesses, and in numerous charges confidently made, and as yet wholly uninvestigated, there was enough to induce a majority of the committee of investigation, a committee which was selected from the most able and honorable members of the House of Representatives, to recommend a suspension of further action upon the bill, and a prosecution of the inquiry. As the charter had yet four years to run, and as a renewal now was not necessary to the successful prosecution of its business, it was to have been expected that the bank itself, conscious of its purity, and proud of its character, would have withdrawn its application for the present, and demanded the severest scrutiny into all its transactions. In their declining to do so, there seems to be an additional reason why the functionaries of the government should

proceed with less haste, and more caution, in the renewal of their monopoly."

The appearance of the veto message was the signal for the delivery of the great speeches of the advocates of the bank. Thus far they had held back, refraining from general debate, and limiting themselves to brief answers to current objections. Now they came forth in all their strength, in speeches elaborate and studied, and covering the whole ground of constitutionality and expediency; and delivered with unusual warmth and vehemence. Mr. Webster, Mr. Clay, Mr. Clayton of Delaware, and Mr. Ewing of Ohio, thus entered the lists for the bank. And why these speeches, at this time, when it was certain that speaking would have no effect in overcoming the veto—that the constitutional majority of two thirds of each House to carry it, so far from being attainable, would but little exceed a bare majority? The reason was told by the speakers themselves—fully told, as an appeal to the people—as a transfer of the question to the political arena—to the election fields, and especially to the presidential election, then impending, and within four months of its consummation—and a refusal on the part of the corporation to submit to the decision of the constituted authorities. This was plainly told by Mr. Webster in the opening of his argument; frightful distress was predicted: and the change of the chief magistrate was presented as the only means of averting an immense calamity on one hand, or of securing an immense benefit on the other. He said:

"It is now certain that, without a change in our public councils, this bank will not be continued, nor will any other be established, which, according to the general sense and language of mankind, can be entitled to the name. In three years and nine months from the present moment, the charter of the bank expires; within that period, therefore, it must wind up its concerns. It must call in its debts, withdraw its bills from circulation, and cease from all its ordinary operations. All this is to be done in three years and nine months; because, although there is a provision in the charter rendering it lawful to use the corporate name for two years after the expiration of the charter, yet this is allowed only for the purpose of suits, and for the sale of the estate belonging to the bank, and for no other purpose whatever. The whole active business of the bank, its custody of public deposits, its transfers of public moneys, its dealing in exchange, all its loans and discounts, and all its issues of bills for circulation, must cease and determine on or before the 3d day of March, 1836; and, within the same period, its debts must be collected, as no new contract can be made with it, as a corporation, for the renewal of loans, or discount of notes or bills, after that time."

Mr. Senator White of Tennessee, seizing upon this open entrance into the political arena by the bank, thanked Mr. Webster for his candor, and summoned the people to the combat of the great moneyed power, now openly at the head of a great political party, and carrying the fortunes of that party in the question of its own continued existence. He said:

"I thank the senator for the candid avowal that unless the President will sign such a char ter as will suit the directors, they intend to interfere in the election, and endeavor to displace him. With the same candor I state that, after this declaration, this charter shall never be renewed with my consent.

"Let us look at this matter as it is. Immedi ately before the election, the directors apply for a charter, which they think the President at any other time will not sign, for the express purpose of compelling him to sign contrary to his judgment, or of encountering all their hostility in the canvass, and at the polls. Suppose this attempt to have succeeded, and the President, through fear of his election, had signed this charter, although he conscientiously believes it will be destructive of the liberty of the people who have elected him to preside over them, and preserve their liberties, so far as in his power. What next? Why, whenever the charter is likely to expire hereafter, they will come, as they do now, on the eve of the election, and compel the chief magistrate to sign such a charter as they may dictate, on pain of being turned out and disgraced. Would it not be far better to gratify this moneyed aristocracy, to the whole extent at once, and renew their charter for ever? The temptation to a periodical interference in our elections would then be taken away.

"Sir, if, under these circumstances, the charter is renewed, the elective franchise is destroyed, and the liberties and prosperity of the people are delivered over to this moneyed institution, to be disposed of at their discretion. Against this I enter my solemn protest."

The distress to be brought upon the country by the sudden winding up of the bank, the sudden calling in of all its debts, the sudden withdrawal of all its capital, was pathetically dwelt upon by all the speakers, and the alarming pic ture thus presented by Mr. Clayton:

"I ask, what is to be done for the country? All thinking men must now admit that, as the present bank must close its concerns in less than

four years, the pecuniary distress, the commercial embarrassments, consequent upon its destruction, must exceed any thing which has ever been known in our history, unless some other bank can be established to relieve us. Eight and a half millions of the bank capital, belonging to foreigners, must be drawn from us to Europe. Seven millions of the capital must be paid to the government, not to be loaned again, but to remain, as the President proposes, deposited in a branch of the treasury, to check the issues of the local banks. The immense available resourses of the present institution, amounting, as appears by the report in the other House, to $82,057,483, are to be used for banking no longer, and nearly fifty millions of dollars in notes discounted, on personal and other security, must be paid to the bank. The State banks must pay over all their debts to the expiring institution, and curtail their discounts to do so, or resort, for the relief of their debtors, to the old plan of emitting more paper, to be bought up by speculators at a heavy discount."

This was an alarming picture to present, and especially as the corporation had it in its power to create the distress which it foretold—a consummation frightfully realized three years later—but a picture equally unjustifiable and gratuitous. Two years was the extent of the time, after the expiration of its charter, that the corporation had accepted in its charter for winding up its business; and there were now four years to run before these two years would commence. The section 21, of the charter, provided for the contingency thus:

"And notwithstanding the expiration of the term for which the said corporation is created, it shall be lawful to use the coporate name, style and capacity, for the purpose of suits for the final settlement and liquidation of the affairs and accounts of the corporation, and for the sale and disposition of their estate real, personal and mixed: but not for any other purpose, or in any other manner whatever, nor for a period exceeding two years after the expiration of said term of incorporation."

Besides the two years given to the institution after the expiration of its charter, it was perfectly well known, and has since been done in its own case, and was done by the first national bank, and may be by any expiring corporation, that the directors may appoint trustees to wind up their concerns; and who will not be subject to any limited time. The first national bank—that which was created in 1791, and expired in 1811—had no two years, or any time whatever, allowed for winding up its affairs after the expiration of its charter—and the question of the renewal was not decided until within the last days of the existence of its charter—yet there was no distress, and no pressure upon its debtors. A trust was created; and the collection of debts conducted so gently that it is not yet finished. The trustees are still at work: and within this year, and while this application for a renewed charter to the second bank is going on, they announce a dividend of some cents on the share out of the last annual collections; and intimate no time within which they will finish; so that this menace of distress from the second bank, if denied a renewal four years before the expiration of its charter, and four years before the commencement of the two years to which it is entitled, was entirely gratuitous, and would have been wicked if executed.

Mr. Clay concluded the debate on the side of the bank application, and spoke with great ardor and vehemence, and with much latitude of style and topic—though as a rival candidate for the Presidency, it was considered by some, that a greater degree of reserve might have been commendable. The veto, and its imputed undue exercise, was the theme of his vehement declamation. Besides discrediting its use, and denouncing it as of monarchial origin, he alluded to the popular odium brought upon Louis the 16th by its exercise, and the nickname which it caused to be fastened upon him. He said:

"The veto is hardly reconcilable with the genius of representative government. It is totally irreconcilable with it, if it is to be frequently employed in respect to the expediency of measures, as well as their constitutionality. It is a feature of our government borrowed from a prerogative of the British King. And it is remarkable that in England it has grown obsolete, not having been used for upwards of a century. At the commencement of the French Revolution, in discussing the principles of their constitution, in the national convention, the veto held a conspicuous figure. The gay, laughing population of Paris bestowed on the King the appellation of Monsieur Veto, and on the Queen that of Madame Veto."

Mr. Benton saw the advantage which this denunciation and allusion presented, and made relentless use of it. He first vindicated the use and origin of the veto, as derived from the institution of the tribunes of the people among the Romans, and its exercise always intended for the benefit of the people; and, under our constitu-

tion, its only effect to refer a measure to the people, for their consideration, and to stay its execution until the people could pass upon it, and to adopt or reject it at an ensuing Congress. It was a power eminently just and proper in a representative government, and intended for the benefit of the whole people; and, therefore, placed in the hands of the magistrate elected by the whole. On the allusion to the nickname on the King and Queen of France, he said:

"He not only recollected the historical incident to which the senator from Kentucky had alluded, but also the character of the decrees to which the unfortunate Louis the 16th had affixed his vetoes. One was the decree against the emigrants, dooming to death and confiscation of estate every man, woman, and child who should attempt to save their lives by flying from the pike, the guillotine, and the lamp-post. The other was a decree exposing to death the ministers of religion who could not take an oath which their consciences repulsed. To save tottering age, trembling mothers, and affrighted children from massacre—to save the temples and altars of God from being stained by the blood of his ministers—were the sacred objects of those vetoes; and was there any thing to justify a light or reproachful allusion to them in the American Senate? The King put his constitutional vetoes to these decrees; and the *canaille* of Saint Antoine and Marceau—not the gay and laughing Parisians, but the bloody *canaille*, instigated by leaders more ferocious than themselves—began to salute the King as Monsieur Veto, and demand his head for the guillotine. And the Queen, when seen at the windows of her prison, her locks pale with premature white, the effect of an agonized mind at the ruin she witnessed, the *poissardes* saluted her also as Madame Veto; and the Dauphin came in for the epithet of the Little Veto. All this was terrible in France, and in the disorders of a revolution; but why revive their remembrance in this Congress, successor to those which were accustomed to call this king our great ally? and to compliment him on the birth of that child, stigmatized *le petit veto*, and perishing prematurely under the inhumanities of the convention inflicted by the hand of Simon, the jailer? The two elder vetoes, Monsieur and Madame, came to the guillotine in Paris, and the young one to a death, compared to which the guillotine was mercy. And now, why this allusion? what application of its moral? Surely it is not pointless; not devoid of meaning and practical application. We have no bloody guillotines here, but we have political ones: sharp axes falling from high, and cutting off political heads! Is the service of that axe invoked here upon 'General Andrew Veto?' If so, and the invocation should be successful, then Andrew Jackson, like Louis 16th, will cease to be in any body's way in their march to power."

Mr. Clay also introduced a fable, not taken from Æsop—that of the cat and the eagle—the moral of which was attempted to be turned against him. It was in allusion to the President's message in relation to the bank, and the conduct of his friends since in "attacking" the institution; and said:

"They have done so; and their condition now reminds me of the fable invented by Dr. Franklin, of the Eagle and the Cat, to demonstrate that Æsop had not exhausted invention, in the construction of his memorable fables. The eagle, you know, Mr. President, pounced, from his lofty flight in the air, upon a cat, taking it to be a pig. Having borne off his prize, he quickly felt most painfully the claws of the cat thrust deeply into his sides and body. Whilst flying, he held a parley with the supposed pig, and proposed to let go his hold, if the other would let him alone. No, says puss, you brought me from yonder earth below, and I will hold fast to you until you carry me back; a condition to which the eagle readily assented."

Mr. Benton gave a poetical commencement to this fable; and said:

"An eagle towering in his pride of height was—not by a mousing owl, but by a pig under a jimpson weed—not hawked and killed, but caught and whipt. The opening he thought grand; the conclusion rather bathotic. The mistake of the sharp-eyed bird of Jove, he thought might be attributed to old age dimming the sight, and to his neglect of his spectacles that morning. He was rather surprised at the whim of the cat in not choosing to fall, seeing that a cat (unlike a politician sometimes), always falls on its legs; but concluded it was a piece of pride in puss, and a wish to assimilate itself still closer to an æronaut; and having gone up pendant to a balloon, it would come down artistically, with a parachute spread over its head. It was a pretty fable, and well told; but the moral—the application? Æsop always had a moral to his fable; and Dr. Franklin, his imputed continuator in this particular, though not yet the rival of his master in fabulous reputation, yet had a large sprinkling of practical sense; and never wrote or spoke without a point and an application. And now, what is the point here? And the senator from Kentucky has not left that to be inferred; he has told it himself. General Jackson is the eagle; the bank is the cat; the parley is the proposition of the bank to the President to sign its charter, and it will support him for the presidency—if not, will keep his claws stuck in his sides. But, Jackson, different from the eagle with his cat, will have no compromise, or bargain with the bank. One or the other shall fall! and be dashed into atoms!

"Having disposed of these preliminary topics

Mr. B. came to the matter in hand—the debate on the bank, which had only commenced on the side of the friends of that institution since the return of the veto message. Why debate the bank question now, he exclaimed, and not debate it before? Then was the time to make converts; now, none can be expected. Why are lips unsealed now, which were silent as the grave when this act was on its passage through the Senate? The senator from Kentucky himself, at the end of one of his numerous perorations, declared that he expected to make no converts. Then, why speak three hours? and other gentlemen speak a whole day? Why this *post facto—post mortem*—this *posthumous* —debate?—The deed is done. The bank bill is finished. Speaking cannot change the minds of senators, and make them reverse their votes; still less can it change the President, and make him recall his veto. Then why speak? To whom do they speak? With what object do they speak? Sir! exclaimed Mr. B., this *post facto* debate is not for the Senate, nor the President, nor to alter the fate of the bank bill. It is to rouse the officers of the bank—to direct the efforts of its mercenaries in their designs upon the people—to bring out its stream of corrupting influence, by inspiring hope, and to embody all its recruits at the polls to vote against President Jackson. Without an avowal we would all know this; but we have not been left without an avowal. The senator from Massachusetts (Mr. Webster), who opened yesterday, commenced his speech with showing that Jackson must be put down; that he stood as an impassable barrier between the bank and a new charter; and that the road to success was through the ballot boxes at the presidential election. The object of this debate is then known, confessed, declared, avowed; the bank is in the field; enlisted for the war; a battering ram—the *catapulta*, not of the Romans, but of the National Republicans; not to beat down the walls of hostile cities, but to beat down the citadel of American liberty; to batter down the rights of the people; to destroy a hero and patriot; to command the elections, and to elect a Bank President by dint of bank power.

"The bank is in the field (said Mr. B.), a combatant, and a fearful and tremendous one, in the presidential election. If she succeeds, there is an end of American liberty—an end of the republic. The forms of election may be permitted for a while, as the forms of the consular elections were permitted in Rome, during the last years of the republic; but it will be for a while, only. The President of the bank, and the President of the United States, will be cousins, and cousins in the royal sense of the word. They will elect each other. They will elect their successors; they will transmit their thrones to their descendants, and that by legislative construction. The great Napoleon was decreed to be hereditary emperor by virtue of the 22d article of the constitution of the republic. The conservative Senate and the Tribunitial Assembly made him emperor by construction; and the same construction which was put upon the 22d article of the French constitution of the year VIII. may be as easily placed upon the 'general welfare' clause in the constitution of these United States.

"The Bank is in the field, and the West,—the Great West, is the selected theatre of her operations. There her terrors, her seductions, her energies, her rewards and her punishments, are to be directed. The senator from Massachusetts opened yesterday with a picture of the ruin in the West, if the bank were not rechartered; and the senator from Kentucky, Mr. Clay, wound up with a retouch of the same picture to day, with a closeness of coincidence which showed that this part of the battle ground had been reviewed in company by the associate generals and duplicate senators. Both agree that the West is to be ruined if the bank be not rechartered; and rechartered it cannot be, unless the *veto* President is himself *vetoed*. This is certainly candid. But the gentlemen's candor did not stop there. They went on to show the *modus operandi;* to show how the ruin would be worked, how the country would be devastated,—if Jackson was not put down, and the bank rechartered. The way was this: The West owes thirty millions of dollars to the bank; the bank will sue every debtor within two years after its charter expires; there will be no money in the country to pay the judgments, all property will be sold at auction; the price of all property will fall; even the growing crops, quite up to Boon's Lick, will sink in value and lose half their price! This is the picture of ruin now drawn by the senator from Massachusetts; these the words of a voice now pleading the cause of the West against Jackson, the sound of which voice never happened to be heard in favor of the West during the late war, when her sons were bleeding under the British and the Indians, and Jackson was perilling life and fortune to save and redeem her.

"This is to be the punishment of the West if she votes for Jackson; and by a plain and natural inference, she is to have her reward for putting him down and putting up another. Thirty millions is the bank debt in the West; and these thirty millions they threaten to collect by writs of execution if Jackson is re-elected; but if he be not elected, and somebody else be elected, then they promise no forced payments shall be exacted,—hardly any payment at all! The thirty millions it is pretended will almost be forgiven; and thus a bribe of thirty millions is deceitfully offered for the Western vote, with a threat of punishment, if it be not taken! But the West, and especially the State of Ohio, is aware that Mr. Clay does not use the bank power, in extending charities—coercion is his mode of appeal—and when President Clay and President Biddle have obtained their double sway, all these fair promises will be forgotten. Mr. B. had read in the Roman history of the

empire being put up to sale; he had read of victorious generals, returning from Asiatic conquests, and loaded with oriental spoil, bidding in the market for the consulship, and purchasing their elections with the wealth of conquered kingdoms; but he had never expected to witness a bid for the presidency in this young and free republic. He thought he lived too early,—too near the birth of the republic,—while every thing was yet too young and innocent,—to see the American presidency put up at auction. But he affirmed this to be the case now; and called upon every senator, and every auditor, who had heard the senator from Massachusetts the day before, or the senator from Kentucky on that day, to put any other construction, if they could, upon this seductive offer to the West, of indefinite accommodation for thirty millions of debt, if she would vote for one gentleman, and the threat of a merciless exaction of that debt, if she voted for another?

"Mr. B. demanded how the West came to be selected by these two senators as the theatre for the operation of all the terrors and seductions of the bank debt? Did no other part of the country owe money to the bank? Yes! certainly, fifteen millions in the South, and twenty-five millions north of the Potomac. Why then were not the North and the South included in the fancied fate of the West? Simply because the presidential election could not be affected by the bank debt in those quarters. The South was irrevocably fixed; and the terror, or seduction, of the payment, or non-payment, of her bank debt, would operate nothing there. The North owed but little, compared to its means of payment, and the presidential election would turn upon other points in that region. The bank debt was the argument for the West; and the bank and the orators had worked hand in hand, to produce, and to use, this argument. Mr. B. then affirmed, that the debt had been created for the very purpose to which it was now applied; an electioneering, political purpose; and this he proved by a reference to authentic documents.

"*First:* He took the total bank debt, as it existed when President Jackson first brought the bank charter before the view of Congress in December, 1829, and showed it to be $40,216,000; then he took the total debt as it stood at present, being $70,428,000; and thus showed an increase of thirty millions in the short space of two years and four months. This great increase had occurred since the President had delivered opinions against the bank, and when as a prudent, and law abiding institution, it ought to have been reducing and curtailing its business, or at all events, keeping it stationary. He then showed the annual progress of this increase, to demonstrate that the increase was faster and faster, as the charter drew nearer and nearer to its termination, and the question of its renewal pressed closer and closer upon the people. He showed that the increase the first year after the message of 1829 was four millions and a quarter; in the second year, which was last year, about nineteen millions, to wit, from $44,052,000, to $63,026 452; and the increase in the four first months of the present year was nearly five millions, being at the rate of about one million and a quarter a month since the bank had applied for a renewal of her charter! After having shown this enormous increase in the sum total of the debt, Mr. B. went on to show where it had taken place; and this he proved to be chiefly in the West, and not merely in the West, but principally in those parts of the West in which the presidential election was held to be most doubtful and critical.

"He began with the State of Louisiana, and showed that the increase there, since the delivery of the message of 1829, was $5,061,161; in Kentucky, that the increase was $3,009,838; that in Ohio, it was $2,079,207. Here was an increase of ten millions in three critical and doubtful States. And so on, in others. Having shown this enormous increase of debt in the West, Mr. B. went on to show, from the time and circumstances and subsequent events, that they were created for a political purpose, and had already been used by the bank with that view. He then recurred to the two-and-twenty circulars, or writs of execution, as he called them, issued against the South and West, in January and February last, ordering curtailments of all debts, and the supply of reinforcements to the Northeast. He showed that the reasons assigned by the bank for issuing the orders of curtailments were false; that she was not deprived of public deposits, as she asserted; for she then had twelve millions, and now has twelve millions of these deposits; that she was not in distress for money, as she asserted, for she was then increasing her loans in other quarters, at the rate of a million and a quarter a month, and had actually increased them ten millions and a half from the date of the first order of curtailment, in October, 1831, to the end of May, 1832! Her reasons then assigned for curtailing at the Western branches, were false, infamously false, and were proved to be so by her own returns. The true reasons were political: a foretaste and prelude to what is now threatened. It was a manœuvre to press the debtors—a turn of the screw upon the borrowers—to make them all cry out and join in the clamors and petitions for a renewed charter! This was the reason, this the object; and a most wanton and cruel sporting it was with the property and feelings of the unfortunate debtors. The overflowing of the river at Louisville and Cincinnati, gave the bank an opportunity of showing its gracious condescension in the temporary and slight relaxation of her orders at those places; but there, and every where else in the West, the screw was turned far enough to make the screams of the victims reach their representatives in Congress. In Mobile, alone, half a million was curtailed out of a million and a half; at every other branch, curtailments are

going on; and all this for political effect, and to be followed up by the electioneering fabrication that it is the effect of the veto message. Yes! the veto message and President, are to be held up as the cause of these curtailments, which have been going on for half a year past!

"Connected with the creation of this new debt, was the establishment of several new branches, and the promise of many more. Instead of remaining stationary, and awaiting the action of Congress, the bank showed itself determined to spread and extend its business, not only in debts, but in new branches. Nashville, Natchez, St. Louis, were favored with branches at the eleventh hour. New-York had the same favor done her; and, at one of these (the branch at Utica), the Senate could judge of the necessity to the federal government which occasioned it to be established, and which necessity, in the opinion of the Supreme Court, is sufficient to overturn the laws and constitution of a State: the Senate could judge of this necessity, from the fact that twenty-five dollars is rather a large deposit to the credit of the United States Treasurer, and that, at the last returns, the federal deposit was precisely two dollars and fifty cents! This extension of branches and increase of debt, at the approaching termination of the charter, was evidence of the determination of the bank to be rechartered at all hazards. It was done to create an interest to carry her through, in spite of the will of the people. Numerous promises for new branches, is another trick of the same kind. Thirty new branches are said to be in contemplation, and about three hundred villages have been induced each to believe that itself was the favored spot of location; but, always upon the condition, well understood, that Jackson should not be re-elected, and that they should elect a representative to vote for the recharter.

"Mr. B., having shown when and why this Western debt was created, examined next into the alleged necessity for its prompt and rigorous collection, if the charter was not renewed; he denied the existence of any such necessity in point of law. He affirmed that the bank could take as much time as she pleased to collect her debts, and could be just as gentle with her debtors as she chose. All that she had to do was to convert a few of her directors into trustees, as the old Bank of the United States had done, the affairs of which were wound up so gently that the country did not know when it ended. Mr. B. appealed to what would be admitted to be bank authority on this point: it was the opinion of the senator from Kentucky (Mr. Clay), not in his speech against renewing the bank charter, in 1811, but in his report of that year against allowing it time to wind up its affairs. The bank then asked time to wind up its affairs; a cry was raised that the country would be ruined, if time was not allowed; but the senator from Kentucky then answered that cry, by referring the bank to its common law right to constitute trustees to wind up its affairs. The Congress acted upon the suggestion by refusing the time; the bank acted upon the suggestion by appointing trustees; the debtors hushed their cries, and the public never heard of the subject afterwards. The pretext of an unrenewed charter is not necessary to stimulate the bank to the pressure of Western debtors. Look at Cincinnati! what but a determination to make its power felt and feared occasioned the pressure at that place? And will that disposition ever be wanting to such an institution as that of the Bank of the United States?

"The senator from Kentucky has changed his opinion about the constitutionality of the bank; but has he changed it about the legality of the trust? If he has not, he must surrender his alarms for the ruin of the West; if he has, the law itself is unchanged. The bank may act under it; and if she does not, it is because she will not; and because she chooses to punish the West for refusing to support her candidate for the presidency. What then becomes of all this cry about ruined fortunes, fallen prices, and the loss of growing crops? All imagination or cruel tyranny! The bank debt of the West is thirty millions. She has six years to pay it in; and, at all events, he that cannot pay in six years, can hardly do it at all. Ten millions are in bills of exchange; and, if they are real bills, they will be payable at maturity, in ninety or one hundred and twenty days; if not real bills, but disguised loans, drawing interest as a debt, and premium, as a bill of exchange, they are usurious and void, and may be vacated in any upright court.

"But, the great point for the West to fix its attention upon is the fact that once in every ten years, the capital of this debt is paid in annual interest; and that, after paying the capital many times over in interest, the principal will have to be paid at last. The sooner, then, the capital is paid and interest stopped, the better for the country.

"Mr. Clay and Mr. Webster had dilated largely upon the withdrawal of bank capital from the West. Mr. B. showed, from the bank documents, that they had sent but 938,000 dollars of capital there; that the operation was the other way, a ruinous drain of capital, and that in hard money, from the West. He went over the tables which showed the annual amount of these drains, and demonstrated its ruinous nature upon the South and West. He showed the tendency of all branch bank paper to flow to the Northeast, the necessity to redeem it annually with gold and silver, and bills of exchange, and the inevitable result, that the West would eventually be left without either hard money, or branch bank paper.

"Mr. Clay had attributed all the disasters of the late war, especially the surrender of Detroit, and the Bladensburg rout, to the want of this bank. Mr. B. asked if bank credits, or bank advances, could have inspired courage into the bosom of the unhappy old man who had been

the cause of the surrender of Detroit? or, could have made those fight who could not be inspired by the view of their capitol, the presence of their President, and the near proximity of their families and firesides? Andrew Jackson conquered at New Orleans, without money, without arms, without credit—aye, without a bank. He got even his flints from the pirates. He scouted the idea of brave men being produced by the bank. If it had existed, it would have been a burthen upon the hands of the government. It was now, at this hour, a burthen upon the hands of the government, and an obstacle to the payment of the public debt. It had procured a payment of six millions of the public debt to be delayed, from July to October, under the pretext that the merchants could not pay their bonds, when these bonds were now paid, and twelve millions of dollars—twice the amount intended to have been paid—lies in the vaults of the bank to be used by her in beating down the veto message, the author of the message, and all who share his opinions. The bank was not only a burthen upon the hands of the government now, but had been a burthen upon it in three years after it started—when it would have stopped payment, as all America knows, in April 1819, had it not been for the use of eight millions of public deposits, and the seasonable arrival of wagons loaded with specie from Kentucky and Ohio.

"Mr. B. defended the old banks in Kentucky, Ohio, and Tennessee, from the aspersions which had been cast upon them. They had aided the government when the Northern bankers, who now scoff at them, refused to advance a dollar. They had advanced the money which enabled the warriors of the West to go forth to battle. They had crippled themselves to aid their government. After the war they resumed specie payments, which had been suspended with the consent of the legislatures, to enable them to extend all their means in aid of the national struggle. This resumption was made practicable by the Treasury deposit, in the State institutions. They were withdrawn to give capital to the branches of the great monopoly, when first extended to the West. These branches, then, produced again the draining of the local banks, which they had voluntarily suffered for the sake of government during the war. They had sacrificed their interests and credit to sustain the credit of the national treasury—and the treasury surrendered them, as a sacrifice to the national bank. They stopped payment under the pressure and extortion of the new establishments, introduced against the consent of the people and legislatures of the Western States. The paper of the Western banks depreciated—the stock of the States and of individual stockholders was sacrificed—the country was filled with a spurious currency, by the course of an institution which, it was pretended, was established to prevent such a calamity The Bank of the United States was thus established on the ruins of the banks, and foreigners and non-residents were fattened on their spoils. They were stripped of their specie to pamper the imperial bank. They fell victims to their patriotism, and to the establishment of the United States bank; and it was unjust and unkind to reproach them with a fate which their patriotism, and the establishmen of the federal bank brought upon them.

"Mr. Clay and Mr. Webster had rebuked the President for his allusion to the manner in which the bank charter had been pushed through Congress, pending an unfinished investigation, reluctantly conceded. Mr. B. demanded if that was not true? He asked if it was not wrong to push the charter through in that manner, and if the President had not done right to stop it, to balk this hurried process, and to give the people time for consideration and enable them to act? He had only brought the subject to the notice of the Congress and the people, but had not recommended immediate legislation, before the subject had been canvassed before the nation. It was a gross perversion of his messages to quote them in favor of immediate decision without previous investigation. He was not evading the question. The veto message proved that. He sought time for the people, not for himself, and in that he coincided with a sentiment lately expressed by the senator himself (from Kentucky) at Cincinnati; he was coinciding with the example of the British parliament, which had not yet decided the question of rechartering the Bank of England, and which had just raised an extraordinary committee of thirty-one members to examine the bank through all her departments; and, what was much more material, he had coincided with the spirit of our constitution, and the rights of the people, in preventing an expiring minority Congress from usurping the powers and rights of their successors. The President had not evaded the question. He had met it fully. He might have said nothing about it in his messages of 1829, '30, and '31. He might have remained silent, and had the support of both parties; but the safety and interest of the country required the people to be awakened to the consideration of the subject. He had waked them up; and now that they are awake, he has secured them time for consideration. Is this evasion?

"Messrs. C. and W. had attacked the President for objecting to foreign stockholders in the Bank of the United States. Mr. B. maintained the solidity of the objection, and exposed the futility of the argument urged by the duplicate senators. They had asked if foreigners did not hold stock in road and canal companies? Mr. B. said, yes! but these road and canal companies did not happen to be the bankers of the United States! The foreign stockholders in this bank were the bankers of the United States. They held its moneys; they collected its revenues; they almost controlled its finances; they were to give or withhold aid in war as well as peace, and, it might be, against their own government. Was the United States to depend upon foreigners in a point so material to our existence? The bank

was a national institution. Ought a national institution to be the private property of aliens? It was called the Bank of the United States, and ought it to be the bank of the nobility and gentry of Great Britain? The senator from Kentucky had once objected to foreign stockholders himself. He did this in his speech against the bank in 1811; and although he had revoked the constitutional doctrines of that speech, he [Mr. B.] never understood that he had revoked the sentiments then expressed of the danger of corruption in our councils and elections, if foreigners wielded the moneyed power of our country. He told us then that the power of the purse commanded that of the sword—and would he commit both to the hands of foreigners? All the lessons of history, said Mr. B., admonish us to keep clear of foreign influence. The most dangerous influence from foreignersis through money. The corruption of orators and statesmen, is the ready way to poison the councils, and to betray the interest of a country. Foreigners now own one fourth of this bank; they may own the whole of it! What a temptation to them to engage in our elections! By carrying a President, and a majority of Congress, to suit themselves, they not only become masters of the moneyed power, but also of the political power, of this republic. And can it be supposed that the British stockholders are indifferent to the issue of this election? that they, and their agents, can see with indifference, the re-election of a man who may disappoint their hopes of fortune, and whose achievement at New Orleans is a continued memento of the most signal defeat the arms of England ever sustained?

"The President, in his message, had characterized the exclusive privilege of the bank as 'a monopoly.' To this Mr. Webster had taken exception, and ascended to the Greek root of the word to demonstrate its true signification, and the incorrectness of the President's application. Mr. B. defended the President's use of the term, and said that he would give authority too, but not Greek authority. He would ascend, not to the Greek root, but to the English test of the word, and show that a whig baronet had applied the term to the Bank of England with still more offensive epithets than any the President had used. Mr. B. then read, and commented upon several passages of a speech of Sir William Pulteney, in the British House of Commons, against renewing the charter of the Bank of England, in which the term monopoly was repeatedly applied to that bank; and other terms to display its dangerous and odious charter. In one of the passages the whig baronet said: 'The bank has been supported, and is still supported, by the fear and terror which, by the means of its monopoly, it has had the power to inspire.' In another, he said: 'I consider the power given by the monopoly to be of the nature of all other despotic power, which corrupts the despot as much as it corrupts the slave!' In a third passage he said: 'Whatever language the private bankers may feel themselves bound to hold, he could not believe they had any satisfaction in remaining subject to a power which might destroy them at any moment.' In a fourth: 'No man in France was heard to complain of the Bastile while it existed; yet when it fell, it came down amidst the universal acclamations of the nation!'

"Here, continued Mr. B., is authority, English authority, for calling the British bank in England a monopoly; and the British bank in America is copied from it. Sir Wm. Pulteney goes further than President Jackson. He says, that the Bank of England rules by fear and terror. He calls it a despot, and a corrupt despot. He speaks of the slaves corrupted by the bank; by whom he doubtless means the nominal debtors who have received ostensible loans, real douceurs—never to be repaid, except in dishonorable services. He considers the praises of the country bankers as the unwilling homage of the weak and helpless to the corrupt and powerful. He assimilates the Bank of England, by the terrors which it inspires, to the old Bastile in France, and anticipates the same burst of emancipated joy on the fall of the bank, which was heard in France on the fall of the Bastile. And is he not right? And may not every word of his invective be applied to the British bank in America, and find its appropriate application in well-known, and incontestable facts here? Well has he likened it to the Bastile; well will the term apply in our own country. Great is the fear and terror now inspired by this bank. Silent are millions of tongues, under its terrors which are impatient for the downfall of the monument of despotism, that they may break forth into joy and thanksgiving. The real Bastile was terrible to all France; the figurative Bastile is terrible to all America; but above all to the West, where the duplicate senators of Kentucky and Massachusetts, have pointed to the reign of terror that is approaching, and drawn up the victims for an anticipated immolation. But, exclaimed Mr. B., this is the month of July; a month auspicious to liberty, and fatal to Bastiles. Our dependence on the crown of Great Britain ceased in the month of July; the Bastile in France fell in the month of July, Charles X. was chased from France by the three glorious days of July; and the veto message, which is the Declaration of Independence against the British bank, originated on the fourth of July, and is the signal for the downfall of the American Bastile, and the end of despotism. The time is auspicious; the work will go on; down with the British bank; down with the Bastile; away with the tyrant, will be the patriotic cry of Americans; and down it will go.

"The duplicate senators, said Mr. B., have occupied themselves with criticising the President's idea of the obligation of his oath in construing the constitution for himself. They also think that the President ought to be bound, the Congress ought to be bound, to take the consti-

tution which the Supreme Court may deal out to them! If so, why take an oath? The oath is to bind the conscience, not to enlighten the head. Every officer takes the oath for himself; the President took the oath for himself; administered by the Chief Justice, but not *to* the Chief Justice. He bound himself to observe the constitution, not the Chief Justice's interpretation of the constitution; and his message is in conformity to his oath. This is the oath of duty and of right. It is the path of Jefferson, also, who has laid it down in his writings, that each department judges the constitution for itself, and that the President is as independent of the Supreme Court as the Supreme Court is of the President.

"The senators from Kentucky and Massachusetts have not only attacked the President's idea of his own independence in construing the constitution, but also the construction he has put upon it in reference to this bank. They deny its correctness, and enter into arguments to disprove it, and have even quoted authorities which may be quoted on both sides. One of the senators, the gentleman from Kentucky, might have spared his objection to the President on this point. He happened to think the same way once himself; and while all will accord to him the right of changing for himself, few will allow him the privilege of rebuking others for not keeping up with him in the rigadoon dance of changeable opinions.

"The President is assailed for showing the drain upon the resources of the West, which is made by this bank. How assailed? With any documents to show that he is in error? No! not at all! no such document exists. The President is right, and the fact goes to a far greater extent than is stated in his message. He took the dividend profits of the bank,—the net, and not the gross profits; the latter is the true measure of the burthen upon the people. The annual drain for net dividends from the West, is $1,600,000. This is an enormous tax. But the gross profits are still larger. Then there is the specie drain, which now exceeds three millions of dollars per annum. Then there is the annual mortgage of the growing crop to redeem the fictitious and usurious bills of exchange which are now substituted for ordinary loans, and which sweeps off the staple products of the South and West to the North-eastern cities.—The West is ravaged by this bank. New Orleans, especially, is ravaged by it; and in her impoverishment, the whole West suffers; for she is thereby disabled from giving adequate prices for Western produce. Mr. B. declared that this British bank, in his opinion, had done, and would do, more pecuniary damage to New Orleans, than the British army would have done if they had conquered it in 1815. He verified this opinion by referring to the immense dividend, upwards of half a million a year, drawn from the branch there; the immense amounts of specie drawn from it; the produce carried off to meet the domestic bills of exchange; and the eight and a half millions of debt existing there, of which five millions were created in the last two years to answer electioneering purposes, and the collection of which must paralyze, for years, the growth of the city. From further damage to New Orleans, the veto message would save that great city. Jackson would be her saviour a second time. He would save her from the British bank as he had done from the British army; and if any federal bank must be there, let it be an independent one; a separate and distinct bank, which would save to that city, and to the Valley of the Mississippi, of which it was the great and cherished emporium, the command of their own moneyed system, the regulation of their own commerce and finances, and the accommodation of their own citizens.

"Mr. B. addressed himself to the Jackson bank men, present and absent. They might continue to be for a bank and for Jackson; but they could not be for *this* bank, and for Jackson. This bank is now the open, as it long has been the secret, enemy of Jackson. It is now in the hands of his enemies, wielding all its own money—wielding even the revenues and the credit of the Union—wielding twelve millions of dollars, half of which were intended to be paid to the public creditors on the first day of July, but which the bank has retained to itself by a false representation in the pretended behalf of the merchants. All this moneyed power, with an organization which pervades the continent, working every where with unseen hands, is now operating against the President; and it is impossible to be in favor of this power and also in favor of him at the same time. Choose ye between them! To those who think a bank to be indispensable, other alternatives present themselves. They are not bound nor wedded to this. New American banks may be created. Read, sir, Henry Parnell. See his invincible reasoning, and indisputable facts, to show that the Bank of England is too powerful for the monarchy of Great Britain! Study his plan for breaking up that gigantic institution, and establishing three or four independent banks in its place, which would be so much less dangerous to liberty, and so much safer and better for the people. In these alternatives, the friends of Jackson, who are in favor of national banks, may find the accomplishment of their wishes without a sacrifice of their principles, and without committing the suicidal solecism of fighting against him while professing to be for him.

"Mr. B. addressed himself to the West—the great, the generous, the brave, the patriotic, the devoted West. It was the selected field of battle. There the combined forces, the national republicans, and the national republican bank, were to work together, and to fight together. The holy allies understand each other. They are able to speak in each other's names, and to

promise and threaten in each other's behalf. For this campaign the bank created its debt of thirty millions in the West; in this campaign the associate leaders use that debt for their own purposes. Vote for Jackson! and suits, judgments, and executions shall sweep, like the besom of destruction, throughout the vast region of the West! Vote against him! and indefinite indulgence is basely promised! The debt itself, it is pretended, will, perhaps, be forgiven; or, at all events, hardly ever collected! Thus, an open bribe of thirty millions is virtually offered to the West; and, lest the seductions of the bribe may not be sufficient on one hand, the terrors of destruction are brandished on the other! Wretched, infatuated men, cried Mr. B. Do they think the West is to be bought? Little do they know of the generous sons of that magnificent region! poor, indeed, in point of money, but rich in all the treasures of the heart! rich in all the qualities of freemen and republicans! rich in all the noble feelings which look with equal scorn upon a bribe or a threat. The hunter of the West, with moccasins on his feet, and a hunting shirt drawn around him, would repel with indignation the highest bribe that the bank could offer him. The wretch (said Mr. Benton, with a significant gesture) who dared to offer it, would expiate the insult with his blood.

"Mr. B. rapidly summed up with a view of the dangerous power of the bank, and the present audacity of her conduct. She wielded a debt of seventy millions of dollars, with an organization which extended to every part of the Union, and she was sole mistress of the moneyed power of the republic. She had thrown herself into the political arena, to control and govern the presidential election. If she succeeded in that election, she would wish to consolidate her power by getting control of all other elections. Governors of States, judges of the courts, representatives and senators in Congress, all must belong to her. The Senate especially must belong to her; for, there lay the power to confirm nominations and to try impeachments; and, to get possession of the Senate, the legislatures of a majority of the States would have to be acquired. The war is now upon Jackson, and if he is defeated, all the rest will fall an easy prey. What individual could stand in the States against the power of the bank, and that bank flushed with a victory over the conqueror of the conquerors of Bonaparte? The whole government would fall into the hands of this moneyed power. An oligarchy would be immediately established; and that oligarchy, in a few generations, would ripen into a monarchy. All governments must have their end; in the lapse of time, this republic must perish; but that time, he now trusted, was far distant; and when it comes, it should come in glory, and not in shame. Rome had her Pharsalia, and Greece her Chæronea; and this republic, more illustrious in her birth than Greece or Rome, was entitled to a death as glorious as theirs. She would not die by poison—perish in corruption—no! A field of arms, and of glory, should be her end. She had a right to a battle—a great, immortal battle—where heroes and patriots could die with the liberty which they scorned to survive, and consecrate, with their blood, the spot which marked a nation's fall.

"After Mr. B. had concluded his remarks, Mr. Clay rose and said:—

"The senator from Missouri expresses dissatisfaction that the speeches of some senators should fill the galleries. He has no ground for uneasiness on this score. For if it be the fortune of some senators to fill the galleries when they speak, it is the fortune of others to empty them, with whatever else they fill the chamber. The senator from Missouri has every reason to be well satisfied with the effect of his performance to day; for among his auditors is a lady of great literary eminence. [Pointing to Mrs. Royal.] The senator intimates, that in my remarks on the message of the President, I was deficient in a proper degree of courtesy towards that officer. Whether my deportment here be decorous or not, I should not choose to be decided upon by the gentleman from Missouri. I answered the President's arguments, and gave my own views of the facts and inferences introduced by him into his message. The President states that the bank has an injurious operation on the interests of the West, and dwells upon its exhausting effects, its stripping the country of its currency, &c., and upon these views and statements I commented in a manner which the occasion called for. But, if I am to be indoctrinated in the rules of decorum, I shall not look to the gentleman for instruction. I shall not strip him of his Indian blankets to go to Boon's Lick for lessons in deportment, nor yet to the Court of Versailles, which he eulogizes. There are some peculiar reasons why I should not go to that senator for my views of decorum, in regard to my bearing towards the chief magistrate, and why he is not a fit instructor. I never had any personal rencontre with the President of the United States. I never complained of any outrages on my person committed by him. I never published any bulletins respecting his private brawls. The gentleman will understand my allusion. [Mr. B. said: He will understand you, sir, and so will you him.] I never complained, that while a brother of mine was down on the ground, senseless or dead, he received another blow. I have never made any declaration like these relative to the individual who is President. There is also a singular prophecy as to the consequences of the election of this individual, which far surpasses, in evil foreboding, whatever I may have ever said in regard to his election. I never made any prediction so sinister, nor made any declaration so harsh, as that which is contained in the prediction to which I allude. I never declared my apprehension and belief, that if he were elected, we should be obliged to legislate with pistols and dirks by

our side. At this last stage of the session I do not rise to renew the discussion of this question. I only rose to give the senator from Missouri a full acquittance, and I trust there will be no further occasion for opening a new account with him.

"Mr. B. replied. It is true, sir, that I had an affray with General Jackson, and that I did complain of his conduct. We fought, sir; and we fought, I hope, like men. When the explosion was over, there remained no ill will, on either side. No vituperation or system of petty persecution was kept up between us. Yes, sir, it is true, that I had the personal difficulty, which the senator from Kentucky has had the delicacy to bring before the Senate. But let me tell the senator from Kentucky there is no adjourned question of veracity' between me and General Jackson. All difficulty between us ended with the conflict; and a few months after it, I believe that either party would cheerfully have relieved the other from any peril; and now we shake hands and are friendly when we meet. I repeat, sir, that there is no 'adjourned question of veracity' between me and General Jackson, standing over for settlement. If there had been, a gulf would have separated us as deep as hell.

"Mr. B. then referred to the prediction alleged by Mr. Clay, to have been made by him. I have seen, he said, a placard, first issued in Missouri, and republished lately. It first appeared in 1825, and stated that I had said, in a public address, that if General Jackson should be elected, we must be guarded with pistols and dirks to defend ourselves while legislating here. This went the rounds of the papers at the time. A gentleman, well acquainted in the State of Missouri (Col. Lawless), published a handbill denying the truth of the statement, and calling upon any person in the State to name the time and place, when and where, any such address had been heard from me, or any such declaration made. Colonel Lawless was perfectly familiar with the campaign, but he could never meet with a single individual, man, woman, or child, in the State, who could recollect to have ever heard any such remarks from me. No one came forward to reply to the call. No one had ever heard me make the declaration which was charged upon me. The same thing has lately been printed here, and, in the night, stuck up in a placard upon the posts and walls of this city. While its author remained concealed, it was impossible for me to hold him to account, nor could I make him responsible, who, in the dark, sticks it to the posts and walls: but since it is in open day introduced into this chamber I am enabled to meet it as it deserves to be met. I see who it is that uses it here, and to his face [pointing to Mr. Clay] I am enabled to pronounce it, as I now do, an atrocious calumny.

"Mr. Clay.—The assertion that there is 'an adjourned question of veracity' between me and Gen. Jackson, is, whether made by man or master absolutely false. The President made a certain charge against me, and he referred to witnesses to prove it. I denied the truth of the charge. He called upon his witness to prove it. I leave it to the country to say, whether that witness sustained the truth of the President's allegation. That witness is now on his passage to St. Petersburg, with a commission in his pocket. [Mr. B. here said aloud, in his place, the Mississippi and the fisheries—Mr. Adams and the fisheries—every body understands it.] Mr. C. said, I do not yet understand the senator. He then remarked upon the 'prediction' which the senator from Missouri had disclaimed. Can he, said Mr. C., look to me, and say that he never used the language attributed to him in the placard which he refers to? He says, Col. Lawless denies that he used the words in the State of Missouri. Can you look me in the face, sir [addressing Mr. B.], and say that you never used that language out of the State of Missouri?

"Mr. B. I look, sir, and repeat that it is an atrocious calumny; and I will pin it to him who repeats it here.

"Mr. Clay. Then I declare before the Senate that you said to me the very words—

"[Mr. B. in his place, while Mr. Clay was yet speaking, several times loudly repeated the word 'false, false, false.']

"Mr. Clay said, I fling back the charge of atrocious calumny upon the senator from Missouri.

A call to order was here heard from several senators.

"The President, pro tem., said, the senator from Kentucky is not in order, and must take his seat.

"Mr. Clay. Will the Chair state the point of order?

"The Chair, said Mr. Tazewell (the President pro tem.), can enter in no explanations with the senator.

"Mr. Clay. I shall be heard. I demand to know what point of order can be taken against me, which was not equally applicable to the senator from Missouri.

"The President, pro tem., stated, that he considered the whole discussion as out of order. He would not have permitted it, had he been in the chair at its commencement.

"Mr. Poindexter said, he was in the chair at the commencement of the discussion, and did not then see fit to check it. But he was now of the opinion that it was in not in order.

"Mr. B. I apologize to the Senate for the manner in which I have spoken; but not to the senator from Kentucky.

"Mr. Clay. To the Senate I also offer an apology. To the senator from Missouri none.

"The question was here called for, by several senators, and it was taken, as heretofore reported.

The conclusion of the debate on the side of the bank was in the most impressive form to the fears and apprehensions of the country, and

well calculated to alarm and rouse a community.' Mr. Webster concluded with this peroration, presenting a direful picture of distress if the veto was sustained, and portrayed the death of the constitution before it had attained the fiftieth year of its age. He concluded thus—little foreseeing in how few years he was to invoke the charity of the world's silence and oblivion for the institution which his rhetoric then exalted into a great and beneficent power, indispensable to the well working of the government, and the well conducting of their affairs by all the people:

"Mr. President, we have arrived at a new epoch. We are entering on experiments with the government and the constitution of the country, hitherto untried, and of fearful and appalling aspect. This message calls us to the contemplation of a future, which little resembles the past. Its principles are at war with all that public opinion has sustained, and all which the experience of the government has sanctioned. It denies first principles. It contradicts truths heretofore received as indisputable. It denies to the judiciary the interpretation of law, and demands to divide with Congress the origination of statutes. It extends the grasp of Executive pretension over every power of the government. But this is not all. It presents the Chief Magistrate of the Union in the attitude of arguing away the powers of that government over which he has been chosen to preside; and adopting, for this purpose, modes of reasoning which, even under the influence of all proper feeling towards high official station, it is difficult to regard as respectable. It appeals to every prejudice which may betray men into a mistaken view of their own interests; and to every passion which may lead them to disobey the impulses of their understanding. It urges all the specious topics of State rights, and national encroachment, against that which a great majority of the States have affirmed to be rightful, and in which all of them have acquiesced. It sows, in an unsparing manner, the seeds of jealousy and ill-will against that government of which its author is the official head. It raises a cry that liberty is in danger, at the very moment when it puts forth claims to power heretofore unknown and unheard of. It affects alarm for the public freedom, when nothing so much endangers that freedom as its own unparalleled pretences. This, even, is not all. It manifestly seeks to influence the poor against the rich. It wantonly attacks whole classes of the people, for the purpose of turning against them the prejudices and resentments of other classes. It is a state paper which finds no topic too exciting for its use; no passion too inflammable for its address and its solicitation. Such is this message. It remains, now, for the people of the United States to choose between the principles here avowed and their government. These cannot subsist together. The one or the other must be rejected. If the sentiments of the message shall receive general approbation, the constitution will have perished even earlier than the moment which its enemies originally allowed for the termination of its existence. It will not have survived to its fiftieth year."

On the other hand, Mr. White, of Tennessee, exalted the merit of the veto message above all the acts of General Jackson's life, and claimed for it a more enduring fame, and deeper gratitude than for the greatest of his victories: and concluded his speech thus:

"When the excitement of the time in which we act shall have passed away, and the historian and biographer shall be employed in giving his account of the acts of our most distinguished public men, and comes to the name of Andrew Jackson; when he shall have recounted all the great and good deeds done by this man in the course of a long and eventful life, and the circumstances under which this message was communicated shall have been stated, the conclusion will be, that, in doing this, he has shown a willingness to risk more to promote the happiness of his fellow-men, and to secure their liberties, than by the doing of any other act whatever."

And such, in my opinion, will be the judgment of posterity—the judgment of posterity, if furnished with the material to appreciate the circumstances under which he acted when signing the message which was to decide the question of supremacy between the bank and the government.

CHAPTER LXIX.

THE PROTECTIVE SYSTEM.

The cycle had come round which, periodically, and once in four years, brings up a presidential election and a tariff discussion. The two events seemed to be inseparable; and this being the fourth year from the great tariff debate of 1828, and the fourth year from the last presidential election, and being the long session which precedes the election, it was the one in regular course in which the candidates and their friends make the greatest efforts to operate upon public opinion through the measures which they propose, or oppose in Congress. Added to this, the

election being one on which not only a change of political parties depended, but also a second trial of the election in the House of Representatives in 1824–'25, in which Mr. Adams and Mr. Clay triumphed over General Jackson, with the advantage on their side now of both being in Congress: for these reasons this session became the most prolific of party topics, and of party contests, of any one ever seen in the annals of our Congress. And certainly there were large subjects to be brought before the people, and great talents to appear in their support and defence. The renewal of the national bank charter—the continuance of the protective system—internal improvement by the federal government—division of the public land money, or of the lands themselves—colonization society—extension of pension list—Georgia and the Cherokees—Georgia and the Supreme Court—imprisoned missionaries—were all brought forward, and pressed with zeal, by the party out of power; and pressed in a way to show their connection with the presidential canvass, and the reliance upon them to govern its result. The party in power were chiefly on the defensive; and it was the complete civil representation of a military attack and defence of a fortified place—a siege—with its open and covert attacks on one side, its repulses and sallies on the other—its sappings and minings, as well as its open thundering assaults. And this continued for seven long months—from December to July; fierce in the beginning, and becoming more so from day to day until the last hour of the last day of the exhausted session. It was the most fiery and eventful session that I had then seen—or since seen, except one—the panic session of 1834–'35.

The two leading measures in this plan of operations—the bank and the tariff—were brought forward simultaneously and quickly—on the same day, and under the same lead. The memorial for the renewal of the bank charter was presented in the Senate on the 9th day of January: on the same day, and as soon as it was referred, Mr. Clay submitted a resolution in relation to the tariff, and delivered a speech of three days' duration in support of the American system. The President, in his message, and in view of the approaching extinction of the public debt—then reduced to an event of certainty within the ensuing year—recommended the abolition of duties on numerous articles of neccessity or comfort, not produced at home. Mr. Clay proposed to make the reduction in subordination to the preservation of the "American system:" and this opened the whole question of free trade and protection; and occasioned that field to be trod over again with all the vigor of a fresh exploration. Mr. Clay opened his great speech with a retrospect of what the condition of the country was for seven years before the tarriff of 1824, and what it had been since—the first a period of unprecedented calamity, the latter of equally unprecedented prosperity:—and he made the two conditions equally dependent upon the absence and presence of the protective system. He said:

"Eight years ago, it was my painful duty to present to the other House of Congress an unexaggerated picture of the general distress pervading the whole land. We must all yet remember some of its frightful features. We all know that the people were then oppressed and borne down by an enormous load of debt; that the value of property was at the lowest point of depression; that ruinous sales and sacrifices were every where made of real estate; that stop laws and relief laws and paper money were adopted to save the people from impending destruction; that a deficit in the public revenue existed, which compelled government to seize upon, and divert from its legitimate object, the appropriation to the sinking fund, to redeem the national debt; and that our commerce and navigation were threatened with a complete paralysis. In short, sir, if I were to select any term of seven years since the adoption of the present constitution, which exhibited a scene of the most wide-spread dismay and desolation, it would be exactly the term of seven years which immediately preceded the establishment of the tariff of 1824."

This was a faithful picture of that calamitous period, but the argument derived from it was a two-edged sword, which cut, and deeply, into another measure, also lauded as the cause of the public prosperity. These seven years of national distress which immediately preceded the tariff of 1824, were also the same seven years which immediately followed the establishment of the national bank; and which, at the time it was chartered, was to be the remedy for all the distress under which the country labored: besides, the protective system was actually commenced in the year 1816—contemporaneously with the establishment of the national bank. Before 1816, protection to home industry had been an incident to the levy of revenue; but in 1816 it be-

came an object. Mr. Clay thus deduced the origin and progress of the protective policy:

"It began on the ever memorable 4th day of July—the 4th of July, 1789. The second act which stands recorded in the statute book, bearing the illustrious signature of George Washington, laid the corner stone of the whole system. That there might be no mistake about the matter, it was then solemly proclaimed to the American people and to the world, that it was *necessary* for "the encouragement and *protection* of manufactures," that duties should be laid. It is in vain to urge the small amount of the measure of protection then extended. The great principle was then established by the fathers of the constitution, with the father of his country at their head. And it cannot now be questioned, that, if the government had not then been new and the subject untried, a greater measure of protection would have been applied, if it had been supposed necessary. Shortly after, the master minds of Jefferson and Hamilton were brought to act on this interesting subject. Taking views of it appertaining to the departments of foreign affairs and of the treasury, which they respectively filled, they presented, severally, reports which yet remain monuments of their profound wisdom, and came to the same conclusion of protection to American industry. Mr. Jefferson argued that foreign restrictions, foreign prohibitions, and foreign high duties, ought to be met, at home, by American restrictions, American prohibitions, and American high duties. Mr. Hamilton, surveying the entire ground, and looking at the inherent nature of the subject, treated it with an ability which, if ever equalled, has not been surpassed, and earnestly recommended protection.

"The wars of the French revolution commenced about this period, and streams of gold poured into the United States through a thousand channels, opened or enlarged by the successful commerce which our neutrality enabled us to prosecute. We forgot, or overlooked, in the general prosperity, the necessity of encouraging our domestic manufactures. Then came the edicts of Napoleon, and the British orders in council; and our embargo, non-intercourse, non-importation, and war, followed in rapid succession. These national measures, amounting to a total suspension, for the period of their duration, of our foreign commerce, afforded the most efficacious encouragement to American manufactures; and, accordingly, they every where sprung up. Whilst these measures of restriction and this state of war continued the manufacturers were stimulated in their enterprises by every assurance of support, by public sentiment, and by legislative resolves. It was about that period (1808) that South Carolina bore her high testimony to the wisdom of the policy, in an act of her legislature, the preamble of which, now before me, reads: 'Whereas the establishment and *encouragement* of domestic manufactures is conducive to the interest of a State, by adding new *incentives to industry*, and as being the means of disposing, to advantage, the surplus productions of the *agriculturist:* And whereas, in the present unexampled state of the world, their establishment in our country is not only *expedient*, but politic, in rendering us *independent* of foreign nations.' The legislature, not being competent to afford the most efficacious aid, by imposing duties on foreign rival articles, proceeded to incorporate a company.

"Peace, under the Treaty of Ghent, returned in 1815, but there did not return with it the golden days which preceded the edicts levelled at our commerce by Great Britain and France. It found all Europe tranquilly resuming the arts and the business of civil life. It found Europe no longer the consumer of our surplus, and the employer of our navigation, but excluding, or heavily burdening, almost all the productions of our agriculture, and our rivals in manufactures, in navigation, and in commerce. It found our country, in short, in a situation totally different from all the past—new and untried. It became necessary to adapt our laws, and especially our laws of impost, to the new circumstances in which we found ourselves. It has been said that the tariff of 1816 was a measure of mere revenue; and that it only reduced the war duties to a peace standard. It is true that the question then was, how much, and in what way, should the double duties of the war be reduced? Now, also, the question is, on what articles shall the duties be reduced so as to subject the amount of the future revenue to the wants of the government? Then it was deemed an inquiry of the first importance, as it should be now, how the reduction should be made, so as to secure proper encouragement to our domestic industry. That this was a leading object in the arrangement of the tariff of 1816, I well remember, and it is demonstrated by the language of Mr. Dallas.

"The subject of the American system was again brought up in 1820, by the bill reported by the chairman of the Committee on Manufactures, now a member of the bench of the Supreme Court of the United States, and the principle was successfully maintained by the representatives of the people; but the bill which they passed was defeated in the Senate. It was revived in 1824, the whole ground carefully and deliberately explored, and the bill then introduced, receiving all the sanctions of the constitution. This act of 1824 needed amendments in some particulars, which were attempted in 1828, but ended in some injuries to the system; and now the whole aim was to save an existing system—not to create a new one."

And he summed up his policy thus:

"1. That the policy which we have been considering ought to continue to be regarded as the genuine American system.

"2. That the free trade system, which is pro-

posed as its substitute, ought really to be considered as the British colonial system.

"3. That the American system is beneficial to all parts of the Union, and absolutely necessary to much the larger portion.

"4. That the price of the great staple of cotton, and of all our chief productions of agriculture, has been sustained and upheld, and a decline averted by the protective system.

"5. That, if the foreign demand for cotton has been at all diminished by the operation of that system, the diminution has been more than compensated in the additional demand created at home.

"6. That the constant tendency of the system, by creating competition among ourselves, and between American and European industry, reciprocally acting upon each other, is to reduce prices of manufactured objects.

"7. That, in point of fact, objects within the scope of the policy of protection have greatly fallen in price.

"8. That if, in a season of peace, these benefits are experienced, in a season of war, when the foreign supply might be cut off, they would be much more extensively felt.

"9. And, finally, that the substitution of the British colonial system for the American system, without benefiting any section of the Union, by subjecting us to a foreign legislation, regulated by foreign interests, would lead to the prostration of our manufactures, general impoverishment, and ultimate ruin."

Mr. Clay was supported in his general views by many able speakers—among them, Dickerson and Frelinghuysen of New Jersey; Ewing of Ohio; Holmes of Maine; Bell of New Hampshire; Hendricks of Indiana; Webster and Silsbee of Massachusetts; Robbins and Knight of Rhode Island; Wilkins and Dallas of Pennsylvania; Sprague of Maine; Clayton of Delaware; Chambers of Maryland; Foot of Connecticut. On the other hand the speakers in opposition to the protective policy were equally numerous, ardent and able. They were: Messrs. Hayne and Miller of South Carolina; Brown and Mangum of North Carolina; Forsyth and Troup of Georgia; Grundy and White of Tennessee; Hill of New Hampshire; Kane of Illinois; Benton of Missouri; King and Moore of Alabama; Poindexter of Mississippi; Tazewell and Tyler of Virginia; General Samuel Smith of Maryland. I limit the enumeration to the Senate. In the House the subject was still more fully debated, according to its numbers; and like the bank question, gave rise to heat; and was kept alive to the last day.

General Smith of Maryland, took up the question at once as bearing upon the harmony and stability of the Union—as unfit to be pressed on that account as well as for its own demerits—avowed himself a friend to incidental protection, for which he had always voted, and even voted for the act of 1816—which he considered going far enough; and insisted that all "manufacturers" were doing well under it, and did not need the acts of 1824 and 1828, which were made for "capitalists"—to enable them to engage in manufacturing; and who had not the requisite skill and care, and suffered, and called upon Congress for more assistance. He said:

"We have arrived at a crisis. Yes, Mr. President, at a crisis more appalling than a day of battle. I adjure the Committee on Manufactures to pause—to reflect on the dissatisfaction of all the South. South Carolina has expressed itself strongly against the tariff of 1828—stronger than the other States are willing to speak. But, sir, the whole of the South feel deeply the oppression of that tariff. In this respect there is no difference of opinion. The South—the whole Southern States—all, consider it as oppressive. They have not yet spoken; but when they do speak, it will be with a voice that will not implore, but will demand redress. How much better, then, to grant redress? How much better that the Committee on Manufactures heal the wound which has been inflicted? I want nothing that shall injure the manufacturer. I only want justice.

"I am, Mr. President, one of the few survivors of those who fought in the war of the revolution. We then thought we fought for liberty—for equal rights. We fought against taxation, the proceeds of which were for the benefit of others. Where is the difference, if the people are to be taxed by the manufacturers or by any others? I say manufacturers—and why do I say so? When the Senate met, there was a strong disposition with all parties to ameliorate the tariff of 1828; but I now see a change, which makes me almost despair of any thing effectual being accomplished. Even the small concessions made by the senator from Kentucky [Mr. Clay], have been reprobated by the lobby members, the agents of the manufacturers. I am told they have put their fiat on any change whatever, and hence, as a consequence, the change in the course and language of gentlemen, which almost precludes all hope. Those interested men hang on the Committee on Manufactures like an incubus. I say to that committee, depend upon your own good judgments—survey the whole subject as politicians—discard sectional interests, and study only the common weal—act with these views—and thus relieve the oppressions of the South.

"I have ever, Mr. President, supported the interest of manufactures, as far as it could be

done incidentally. I supported the late Mr. Lowndes's bill of 1816. I was a member of his committee, and that bill protected the manufactures sufficiently, except bar iron. Mr. Lowndes had reported fifteen dollars per ton. The House reduced it to nine dollars per ton. That act enabled the manufacturers to exclude importations of certain articles. The hatters carry on their business by their sons and apprentices, and few, if any, hats are now imported. Large quantities are exported, and preferred. All articles of leather, from tanned side to the finest harness or saddle, have been excluded from importation; and why? Because the business is conducted by their own hard hands, their own labor, and they are now heavily taxed by the tariff of 1828, to enable the rich to enter into the manufactures of the country. Yes, sir, I say the rich, who entered into the business after the act of 1824, which proved to be a mushroom affair, and many of them suffered severely. The act of 1816, I repeat, gave all the protection that was necessary or proper, under which the industrious and frugal completely succeeded. But, sir, the capitalist who had invested his capital in manufactures, was not to be satisfied with ordinary profit; and therefore the act of 1828."

Mr. Clay, in his opening speech had adverted to the Southern discontent at the working of the protective tariff, in a way that showed he felt it to be serious, and entitled to enter into the consideration of statesmen; but considered this system an overruling necessity of such want and value to other parts of the Union, that the danger to its existence laid in the abandonment, and not in the continuance of the "American system." On this point he expressed himself thus:

"And now, Mr. President, I have to make a few observations on a delicate subject, which I approach with all the respect that is due to its serious and grave nature. They have not, indeed, been rendered necessary by the speech of the gentleman from South Carolina, whose forbearance to notice the topic was commendable, as his argument throughout was characterized by an ability and dignity worthy of him and of the Senate. The gentleman made one declaration which might possibly be misinterpreted, and I submit to him whether an explanation of it be not proper. The declaration, as reported in his printed speech, is: 'the instinct of self-interest might have taught us an easier way of relieving ourselves from this oppression. It wanted but the will to have supplied ourselves with every article embraced in the protective system, free of duty, without any other participation, on our part, than a simple consent to receive them.' [Here Mr. Hayne rose, and remarked that the passages, which immediately preceded and followed the paragraph cited, he thought, plainly indicated his meaning, which related to evasions of the system, by illicit introduction of goods, which they were not disposed to countenance in South Carolina.] I am happy to hear this explanation, But, sir, it is impossible to conceal from our view the fact that there is great excitement in South Carolina; that the protective system is openly and violently denounced in popular meetings; and that the legislature itself has declared its purpose of resorting to counteracting measures: a suspension of which has only been submitted to, for the purpose of allowing Congress time to retrace its steps. With respect to this Union, Mr. President, the truth cannot be too generally proclaimed, nor too strongly inculcated, that it is necessary to the whole and to all the parts—necessary to those parts, indeed, in different degrees, but vitally necessary to each; and that, threats to disturb or dissolve it, coming from any of the parts, would be quite as indiscreet and improper, as would be threats from the residue to exclude those parts from the pale of its benefits. The great principle, which lies at the foundation of all free governments, is, that the majority must govern; from which there is nor can be no appeal but to the sword. That majority ought to govern wisely, equitably, moderately, and constitutionally; but, govern it must, subject only to that terrible appeal. If ever one, or several States, being a minority, can, by menacing a dissolution of the Union, succeed in forcing an abandonment of great measures, deemed essential to the interests and prosperity of the whole, the Union, from that moment, is practically gone. It may linger on, in form and name, but its vital spirit has fled for ever! Entertaining these deliberate opinions, I would entreat the patriotic people of South Carolina—the land of Marion, Sumpter, and Pickens; of Rutledge, Laurens, the Pickneys, and Lowndes; of living and present names, which I would mention if they were not living or present—to pause, solemnly pause! and contemplate the frightful precipice which lies directly before them. To retreat, may be painful and mortifying to their gallantry and pride; but it is to retreat to the Union, to safety, and to those brethren, with whom, or, with whose ancestors, they, or their ancestors, have won, on the fields of glory, imperishable renown. To advance, is to rush on certain and inevitable disgrace and destruction.

"The danger to our Union does not lie on the side of persistance in the American system, but on that of its abandonment. If, as I have supposed and believe, the inhabitants of all north and east of James River, and all west of the mountains, including Louisiana, are deeply interested in the preservation of that system, would they be reconciled to its overthrow? Can it be expected that two thirds, if not three fourths, of the people of the United States would consent to the destruction of a policy believed to be indispensably necessary to their prosperity? When,

too, this sacrifice is made at the instance of a single interest, which they verily believe will not be promoted by it? In estimating the degree of peril which may be incident to two opposite courses of human policy, the statesman would be short-sighted who should content himself with viewing only the evils, real or imaginary, which belong to that course which is in practical operation. He should lift himself up to the contemplation of those greater and more certain dangers which might inevitably attend the adoption of the alternative course. What would be the condition of this Union, if Pennsylvania and New-York, those mammoth members of our confederacy, were firmly persuaded that their industry was paralyzed, and their prosperity blighted, by the enforcement of the British colonial system, under the delusive name of free trade? They are now tranquil, and happy, and contented, conscious of their welfare and feeling a salutary and rapid circulation of the products of home manufactures and home industry througout all their great arteries. But let that be checked, let them feel that a foreign system is to predominate, and the sources of their subsistence and comfort dried up; let New England and the West, and the Middle States, all feel that they too are the victims of a mistaken policy, and let these vast portions of our country despair of any favorable change, and then, indeed, might we tremble for the continuance and safety of this Union!"

Here was an appalling picture presented: dissolution of the Union, on either hand, and one or the other of the alternatives obliged to be taken. If persisted in, the opponents to the protective system, in the South, were to make the dissolution; if abandoned, its friends, in the North, were to do it. Two citizens, whose word was law to two great parties, denounced the same event, from opposite causes, and one of which causes was obliged to occur. The crisis required a hero-patriot at the head of the government, and Providence had reserved one for the occasion. There had been a design, in some, to bring Jackson forward for the Presidency, in 1816, and again, in 1820, when he held back. He was brought forward, in 1824, and defeated. These three successive postponements brought him to the right years, for which Providence seemed to have destined him, and which he would have missed, if elected at either of the three preceding elections. It was a reservation above human wisdom or foresight; and gave to the American people (at the moment they wanted him) the man of head, and heart, and nerve, to do what the crisis required: who possessed the confidence of the people, and who knew no course, in any danger, but that of duty and patriotism; and had no feeling, in any extremity but that God and the people would sustain him. Such a man was wanted, in 1832, and was found —found before, but reserved for use now.

The representatives from the South, generally but especially those from South Carolina, while depicting the distress of their section of the Union, and the reversed aspect which had come upon their affairs, less prosperous now than before the formation of the Union, attributed the whole cause of this change to the action of the federal government, in the levy and distribution of the public revenue; to the protective system, which was now assuming permanency, and increasing its exactions; and to a course of expenditure which carried to the North what was levied on the South. The democratic party generally concurred in the belief that this system was working injuriously upon the South, and that this injury ought to be relieved; that it was a cause of dissatisfaction with the Union, which a regard for the Union required to be redressed; but all did not concur in the cause of Southern eclipse in the race of prosperity which their representatives assigned; and, among them, Mr. Dallas, who thus spoke:

"The impressive and gloomy description of the senator from South Carolina [Mr. Hayne], as to the actual state and wretched prospects of his immediate fellow-citizens, awakens the liveliest sympathy, and should command our attention. It is their right; it is our duty. I cannot feel indifferent to the sufferings of any portion of the American people; and esteem it inconsistent with the scope and purpose of the federal constitution, that any majority, no matter how large, should connive at, or protract the oppression or misery of any minority, no matter how small. I disclaim and detest the idea of making one part subservient to another; of feasting upon the extorted substance of my countrymen; of enriching my own region, by draining the fertility and resources of a neighbor; of becoming wealthy with spoils which leave their legitimate owners impoverished and desolate. But, sir, I want proof of a fact, whose existence, at least as described, it is difficult even to conceive; and, above all, I want the true causes of that fact to be ascertained; to be brought within the reach of legislative remedy, and to have that remedy of a nature which may be applied without producing more mischiefs than those it proposes to cure. The proneness to exaggerate social evils is greatest with the most patriotic. Temporary embarrassment is sensitively apprehended to be permanent. Every day's experience teaches how apt we are to magnify partial into universal dis-

tress, and with what difficulty an excited imagination rescues itself from despondency. It will not do, sir, to act upon the glowing or pathetic delineations of a gifted orator; it will not do to become enlisted, by ardent exhortations, in a crusade against established systems of policy; it will not do to demolish the walls of our citadel to the sounds of plaintiff eloquence, or fire the temple at the call of impassioned enthusiasm.

"What, sir, is the cause of Southern distress? Has any gentleman yet ventured to designate it? Can any one do more than suppose, or argumentatively assume it? I am neither willing nor competent to flatter. To praise the honorable senator from South Carolina, would be

> 'To add perfume to the violet—
> Wasteful and ridiculous excess.'

But, if he has failed to discover the source of the evils he deplores, who can unfold it? Amid the warm and indiscriminating denunciations with which he has assailed the policy of protecting domestic manufactures and native produce, he frankly avows that he would not 'deny that there are other causes, besides the tariff, which have contributed to produce the evils which he has depicted.' What are those 'other causes?' In what proportion have they acted? How much of this dark shadowing is ascribable to each singly, and to all in combination? Would the tariff be at all felt or denounced, if these other causes were not in operation? Would not, in fact, its influence, its discriminations, its inequalities, its oppressions, but for these 'other causes,' be shaken, by the elasticity and energy, and exhaustless spirit of the South, as 'dew-drops from the lion's mane?' These inquiries, sir, must be satisfactorily answered before we can be justly required to legislate away an entire system. If it be the root of all evil, let it be exposed and demolished. If its poisonous exhalations be but partial, let us preserve such portions as are innoxious. If, as the luminary of day, it be pure and salutary in itself, let us not wish it extinguished, because of the shadows, clouds, and darkness which obscure its brightness or impede its vivifying power.

"That other causes still, Mr. President, for Southern distress, do exist, cannot be doubted. They combine with the one I have indicated, and are equally unconnected with the manufacturing policy. One of these it is peculiarly painful to advert to; and when I mention it, I beg honorable senators not to suppose that I do it in the spirit of taunt, of reproach, or of idle declamation. Regarding it as a misfortune merely, not as a fault; as a disease inherited, not incurred; perhaps to be alleviated, but not eradicated, I should feel self-condemned were I to treat it other than as an existing fact, whose merit or demerit, apart from the question under debate, is shielded from commentary by the highest and most just considerations. I refer, sir, to the character of Southern labor, in itself, and in its influence on others. Incapable of adaptation to the ever-varying changes of human society and existence, it retains the communities in which it is established, in a condition of apparent and comparative inertness. The lights of science, and the improvements of art, which vivify and accelerate elsewhere, cannot penetrate, or, if they do, penetrate with dilatory inefficiency, among its operatives. They are merely instinctive and passive. While the intellectual industry of other parts of this country springs elastically forward at every fresh impulse, and manual labor is propelled and redoubled by countless inventions, machines, and contrivances, instantly understood and at once exercised, the South remains stationary, inaccessible to such encouraging and invigorating aids. Nor is it possible to be wholly blind to the moral effect of this species of labor upon those freemen among whom it exists. A disrelish for humble and hardy occupation; a pride adverse to drudgery and toil; a dread that to partake in the employments allotted to color, may be accompanied also by its degradation, are natural and inevitable. The high and lofty qualities which, in other scenes and for other purposes, characterize and adorn our Southern brethren, are fatal to the enduring patience, the corporal exertion, and the painstaking simplicity, by which only a successful yeomanry can be formed. When, in fact, sir, the senator from South Carolina asserts that 'slaves are too improvident, too incapable of that minute, constant, delicate attention, and that persevering industry which is essential to the success of manufacturing establishments,' he himself admits the defect in the condition of Southern labor, by which the progress of his favorite section must be retarded. He admits an inability to keep pace with the rest of the world. He admits an inherent weakness; a weakness neither engendered nor aggravated by the tariff—which, as societies are now constituted and directed, must drag in the rear, and be distanced in the common race."

Thus spoke Mr. Dallas, senator from Pennsylvania; and thus speaking, gave offence to no Southern man; and seemed to be well justified in what he said, from the historical fact that the loss of ground, in the race of prosperity, had commenced in the South before the protective system began—before that epoch year, 1816, when it was first installed as a system, and so installed by the power of the South Carolina vote and talent. But the levy and expenditure of the federal government was, doubtless, the main cause of this Southern decadence—so unnatural in the midst of her rich staples—and which had commenced before 1816.

It so happened, that while the advocates of the American system were calling so earnestly for government protection, to enable them to sus-

tain themselves at home, that the custom-house books were showing that a great many species of our manufactures, and especially the cotton, were going abroad to far distant countries; and sustaining themselves on remote theatres against all competition, and beyond the range of any help from our laws. Mr. Clay, himself, spoke of this exportation, to show the excellence of our fabrics, and that they were worth protection; I used the same fact to show that they were independent of protection; and said:

"And here I would ask, how many and which are the articles that require the present high rate of protection? Certainly not the cotton manufacture; for, the senator from Kentucky [Mr. Clay], who appears on this floor as the leading champion of domestic manufactures, and whose admissions of fact must be conclusive against his arguments of theory! this senator tells you, and dwells upon the disclosure with triumphant exultation, that American cottons are now exported to Asia, and sold at a profit in the cotton markets of Canton and Calcutta! Surely, sir, our tariff laws of 1824 and 1828 are not in force in Bengal and China. And I appeal to all mankind for the truth of the inference, that, if our cottons can go to these countries, and be sold at a profit without any protection at all, they can stay at home, and be sold to our own citizens, without loss, under a less protection than fifty and two hundred and fifty per centum! One fact, Mr. President, is said to be worth a thousand theories; I will add that it is worth a hundred thousand speeches; and this fact that the American cottons now traverse the one-half of the circumference of this globe—cross the equinoctial line; descend to the antipodes; seek foreign markets on the double theatre of British and Asiatic competition, and come off victorious from the contest—is a full and overwhelming answer to all the speeches that have been made, or ever can be made, in favor of high protecting duties on these cottons at home. The only effect of such duties is to cut off importations—to create monopoly at home—to enable our manufacturers to sell their goods higher to their own christian fellow-citizens than to the pagan worshippers of Fo and of Brahma! to enable the inhabitants of the Ganges and the Burrampooter to wear American cottons upon cheaper terms than the inhabitants of the Ohio and Mississippi. And every Western citizen knows the fact, that when these shipments of American cottons were making to the extremities of Asia, the price of these same cottons was actually raised twenty and twenty-five per cent., in all the towns of the West; with this further difference to our prejudice, that we can only pay for them in money, while the inhabitants of Asia make payment in the products of their own country.

"This is what the gentleman's admission proved; but I do not come here to argue upon admissions, whether candid or unguarded, of the adversary speakers. I bring my own facts and proofs; and, really, sir, I have a mind to complain that the gentleman's admission about cottons has crippled the force of my argument; that it has weakened its effect by letting out half at a time, and destroyed its novelty, by an anticipated revelation. The truth is, I have this fact (that we exported domestic cottons) treasured up in my magazine of material! and intended to produce it, at the proper time, to show that we exported this article, not to Canton and Calcutta alone, but to all quarters of the globe; not a few cargoes only, by way of experiment, but in great quantities, as a regular trade, to the amount of a million and a quarter of dollars, annually; and that, of this amount, no less than forty thousand dollars' worth, in the year 1830, had done what the combined fleets and armies of the world could not do; it had scaled the rock of Gibraltar, penetrated to the heart of the British garrison, taken possession of his Britannic Majesty's soldiers, bound their arms, legs, and bodies, and strutted in triumph over the ramparts and batteries of that unattackable fortress And now, sir, I will use no more of the gentleman's admissions; I will draw upon my own resources; and will show nearly the whole list of our domestic manufactures to be in the same flourishing condition with cottons, actually going abroad to seek competition, without protection, in every foreign clime, and contending victoriously with foreign manufactures wherever they can encounter them. I read from the custom-house returns, of 1830—the last that has been printed. Listen to it:

"This is the list of domestic manufactures exported to foreign countries. It comprehends the whole, or nearly the whole, of that long catalogue of items which the senator from Kentucky [Mr. Clay] read to us, on the second day of his discourse; and shows the whole to be going abroad, without a shadow of protection, to seek competition, in foreign markets, with the foreign goods of all the world. The list of articles I have read, contains near fifty varieties of manufactures (and I have omitted many minor articles) amounting, in value, to near six millions of dollars! And now behold the diversity of human reasoning! The senator from Kentucky exhibits a list of articles manufactured in the United States, and argues that the slightest diminution in the enormous protection they now enjoy, will overwhelm the whole in ruin, and cover the country with distress; I read the same identical list, to show that all these articles go abroad and contend victoriously with their foreign rivals in all foreign markets."

Mr. Clay had attributed to the tariffs of 1824 and 1828 the reviving and returning prosperity of the country, while in fact it was the mere effect of recovery from prostration, and in spite

of these tariffs, instead of by their help. Business had been brought to a stand during the disastrous period which ensued the establishment of the Bank of the United States. It was a period of stagnation, of settlement, of paying up, of getting clear of loads of debt; and starting afresh. It was the strong man, freed from the burthen under which he had long been prostrate, and getting on his feet again. In the West I knew that this was the process, and that our revived prosperity was entirely the result of our own resources, independent of, and in spite of federal legislation; and so declared it in my speech. I said:

"The fine effects of the high tariff upon the prosperity of the West have been celebrated on this floor: with how much reason, let facts respond, and the people judge! I do not think we are indebted to the high tariff for our fertile lands and our navigable rivers; and I am certain we are indebted to these blessings for the prosperity we enjoy. In all that comes from the soil, the people of the West are rich. They have an abundant supply of food for man and beast, and a large surplus to send abroad. They have the comfortable living which industry creates for itself in a rich soil; but, beyond this, they are poor. They have none of the splendid works which imply the presence of the moneyed power! No Appian or Flaminian ways; no roads paved or McAdamized; no canals, except what are made upon borrowed means; no aqueducts; no bridges of stone across our innumerable streams; no edifices dedicated to eternity; no schools for the fine arts: not a public library for which an ordinary scholar would not apologize. And why none of those things? Have the people of the West no taste for public improvements, for the useful and the fine arts, and for literature? Certainly they have a very strong taste for them; but they have no money! not enough for private and current uses, not enough to defray our current expenses, and buy necessaries! without thinking of public improvements. We have no money! and that is a tale which has been told too often here—chanted too dolefully in the book of lamentations which was composed for the death of the Maysville road—to be denied or suppressed now. They have no adequate supply of money. And why? Have they no exports? Nothing to send abroad? Certainly they have exports. Behold the marching myriads of living animals annually taking their departure from the heart of the West, defiling through the gorges of the Cumberland, the Alleghany, and the Apalachian mountains, or traversing the plains of the South, diverging as they march, and spreading themselves all over that vast segment of our territorial circle which lies between the *debouches* of the Mississippi and the estuary of the Potomac! Behold, on the other hand, the flying steamboats, and the fleets of floating arks, loaded with the products of the forest, the farm, and the pasture, following the course of our noble rivers, and bearing their freights to that great city which revives, upon the banks of the Mississippi, the name* of the greatest of the emperors that ever reigned upon the banks of the Tiber, and who eclipsed the glory of his own heroic exploits by giving an order to his legions never to levy a contribution of salt upon a Roman citizen! Behold this double line of exports, and observe the refluent currents of gold and silver which result from them! Large are the supplies—millions are the amount which is annually poured into the West from these double exportations; enough to cover the face of the earth with magnificent improvements, and to cram every industrious pocket with gold and silver. But where is this money? for it is not in the country! Where does it go? for go it does, and scarcely leaves a vestige of its transit behind! Sir, it goes to the Northeast! to the seat of the American system! there it goes! and thus it goes!"

Mr. Clay had commenced his speech with an apology for what might be deemed failing powers on account of advancing age. He said he was getting old, and might not be able to fulfil the expectation, and requite the attention, of the attending crowd; and wished the task could have fallen to younger and abler hands. This apology for age when no diminution of mental or bodily vigor was perceptible, induced several speakers to commence their replies with allusions to it, generally complimentary, but not admitting the fact. Mr. Hayne gracefully said, that he had lamented the advances of age, and mourned the decay of his eloquence, so eloquently as to prove that it was still in full vigor; and that he had made an able and ingenious argument, fully sustaining his high reputation as an accomplished orator. General Smith, of Maryland, said that he could not complain himself of the infirmities of age, though older than the senator from Kentucky, nor could find in his years any apology for the insufficiency of his speech. Mr. Clay thought this was intended to be a slur upon him, and replied in a spirit which gave rise to the following sharp encounter:

"Mr. Smith then rose, and said he was sorry to find that he had unintentionally offended the honorable gentleman from Kentucky. In referring to the vigorous age he himself enjoyed, he

* "Aurelian," whose name was given to the military station (presidium) which was afterwards corrupted into "Orleans."

had not supposed he should give offence to others who complained of the infirmities of age. The gentleman from Kentucky was the last who should take the remark as disparaging to his vigor and personal appearance; for, when that gentleman spoke to us of his age, he heard a young lady near him exclaim—"Old, why I think he is mighty pretty." The honorable gentleman, on Friday last, made a similitude where none existed. I, said Mr. S., had suggested the necessity of mutual forbearance in settling the tariff, and, thereupon, the gentleman vociferated loudly and angrily about removals from office. He said I was a leader in the system. I deny the fact. I never exercised the least influence in effecting a removal, and on the contrary, I interfered, successfully, to prevent the removal of two gentlemen in office. I am charged with making a committee on roads and canals, adverse to internal improvement. If this be so, it is by mistake. I certainly supposed every gentleman named on that committee but one to be friendly to internal improvement. To the committee on manufactures I assigned four out of five who were known to be friendly to the protective system. The rights of the minority, he had endeavored, also, in arranging the committee, to secure. The appointment of the committees he had found one of the most difficult and onerous tasks he had ever undertaken. One-third of the house were lawyers, all of whom wanted to be put upon some important committee. The oath which the senator had tendered, he hoped he would not take. In the year 1795, Mr. S. said, he had sustained a protective duty against the opposition of a member from Pittsburg. Previous to the year 1822, he had always given incidental support to manufactures, in fixing the tariff. He was a warm friend to the tariff of 1816, which he still regarded as a wise and beneficial law. He hoped, then, the gentleman would not take his oath.

"Mr. Clay placed, he said, a high value on the compliment of which the honorable senator was the channel of communication; and he the more valued it, inasmuch as he did not recollect more than once before, in his life, to have received a similar compliment. He was happy to find that the honorable gentleman disclaimed the system of proscription; and he should, with his approbation, hereafter cite his authority in opposition to it. The Committee on Roads and Canals, whatever were the gentleman's intentions in constructing it, had a majority of members whose votes and speeches against internal improvements were matter of notoriety. The gentleman's appeal to his acts in '95, is perfectly safe; for, old as I am, my knowledge of his course does not extend back that far. He would take the period which the gentleman named, since 1822. It comes, then, to this: The honorable gentleman was in favor of protecting manufactures; but he had turned—I need not use the word—he has abandoned manufactures. Thus:

'Old politicians chew on wisdom past,
And *totter* on in blunders to the last.'

"Mr. Smith.—The last allusion is unworthy of the gentleman. Totter, sir, I totter? Though some twenty years older than the gentleman, I can yet stand firm, and am yet able to correct his errors. I could take a view of the gentleman's course, which would show how inconsistent he has been. [Mr. Clay exclaimed: 'Tak it, sir, take it—I dare you.' [Cries of "order."] No, sir, said Mr. S., I will not take it. I will not so far disregard what is due to the dignity of the Senate."

Mr. Hayne concluded one of his speeches with a declaration of the seriousness of the Southern resistance to the tariff, and with a feeling appeal to senators on all sides of the house to meet their Southern brethren in the spirit of conciliation, and restore harmony to a divided people by removing from among them the never-failing source of contention. He said:

"Let not gentlemen so far deceive themselves as to suppose that the opposition of the South to the protecting system is not based on high and lofty principles. It has nothing to do with party politics, or the mere elevation of men. It rises far above all such considerations. Nor is it influenced chiefly by calculations of interest, but is founded in much nobler impulses. The instinct of self-interest might have taught us an easier way of relieving ourselves from this oppression. It wanted but the will, to have supplied ourselves with every article embraced in the protective system, free of duty, without any other participation on our part than a simple consent to receive them. But, sir, we have scorned, in a contest for our rights, to resort to any but open and fair means to maintain them. The spirit with which we have entered into this business, is akin to that which was kindled in the bosom of our fathers when they were made the victims of oppression; and if it has not displayed itself in the same way, it is because we have ever cherished the strongest feelings of confraternity towards our brethren, and the warmest and most devoted attachment to the Union. If we have been, in any degree, divided among ourselves in this matter, the source of that division, let gentlemen be assured, has not arisen so much from any difference of opinion as to the true character of the oppression, as from the different degrees of hope of redress. All parties have for years past been looking forward to this crisis for the fulfilment of their hopes, or the confirmation of their fears. And God grant that the result may be auspicious.

"Sir, I call upon gentlemen on all sides of the House to meet us in the true spirit of conciliation and concession. Remove, I earnestly beseech you, from among us, this never-failing source of contention. Dry up at its source this fountain

of the waters of bitterness. Restore that harmony which has been disturbed—that mutual affection and confidence which has been impaired. And it is in your power to do it this day; but there is but one means under heaven by which it can—by doing equal justice to all. And be assured that he to whom the country shall be indebted for this blessing, will be considered as the second founder of the republic. He will be regarded, in all aftertimes, as the ministering angel visiting the troubled waters of our political dissensions, and restoring to the element its healing virtues."

I take pleasure in quoting these words of Mr. Hayne. They are words of moderation and of justice—of sorrow more than anger—of expostulation more than menace—of loyalty to the Union—of supplication for forbearance;—and a moving appeal to the high tariff party to avert a national catastrophe by ceasing to be unjust. His moderation, his expostulation, his supplication, his appeal—had no effect on the majority. The protective system continued to be an exasperating theme throughout the session, which ended without any sensible amelioration of the system, though with a reduction of duty on some articles of comfort and convenience: as recommended by President Jackson.

CHAPTER LXX.

PUBLIC LANDS.—DISTRIBUTION TO THE STATES.

The efforts which had been making for years to ameliorate the public land system in the feature of their sale and disposition, had begun to have their effect—the effect which always attends perseverance in a just cause. A bill had ripened to a third reading in the Senate reducing the price of lands which had been long in market less than one half—to fifty cents per acre—and the pre-emption principle had been firmly established, securing the settler in his home at a fixed price. Two other principles, those of donations to actual settlers, and of the cession to the States in which they lie of all land not sold within a reasonable and limited period, were all that was wanting to complete the ameliorated system which the graduation bills proposed; and these bills were making a progress which promised them an eventual success. All the indications were favorable for the speedy accomplishment of these great reforms in the land system when the session of 1831–'32 opened, and with it the authentic annunciation of the extinction of the public debt within two years—which event would remove the objection of many to interfering with the subject, the lands being pledged to that object. This session, preceding the presidential election, and gathering up so many subjects to go into the canvass, fell upon the lands for that purpose, and in the way in which magazines of grain in republican Rome, and money in the treasury in democratic Athens, were accustomed to be dealt with by candidates for office in the periods of election; that is to say, were proposed for distribution. A plan for dividing out among the States for a given period the money arising from the sale of the lands, was reported from the Committee on Manufactures by Mr. Clay, a member of that committee—and which properly could have nothing to do with the sale and disposition of the lands. That report, after a general history, and view of the public lands, came to these conclusions:

"Upon full and thorough consideration, the committee have come to the conclusion that it is inexpedient either to reduce the price of the public lands, or to cede them to the new States. They believe, on the contrary, that sound policy coincides with the duty which has devolved on the general government to the whole of the States, and the whole of the people of the Union, and enjoins the preservation of the existing system as having been tried and approved after long and triumphant experience. But, in consequence of the extraordinary financial prosperity which the United States enjoy, the question merits examination, whether, whilst the general government steadily retains the control of this great national resource in its own hands, after the payment of the public debt, the proceeds of the sales of the public lands, no longer needed to meet the ordinary expenses of government, may not be beneficially appropriated to some other objects for a limited time.

"Governments, no more than individuals, should be seduced or intoxicated by prosperity, however flattering or great it may be. The country now happily enjoys it in a most unexampled degree. We have abundant reason to be grateful for the blessings of peace and plenty, and freedom from debt. But we must be forgetful of all history and experience, if we indulge the delusive hope that we shall always be exempt from calamity and reverses. Seasons of national adversity, of suffering, and of war, will assuredly come. A wise government

should expect, and provide for them. Instead of wasting or squandering its resources in a period of general prosperity, it should husband and cherish them for those times of trial and difficulty, which, in the dispensations of Providence, may be certainly anticipated. Entertaining these views, and as the proceeds of the sales of the public lands are not wanted for ordinary revenue, which will be abundantly supplied from the imposts, the committee respectfully recommend that an appropriation of them be made to some other purpose, for a limited time, subject to be resumed in the contingency of war. Should such an event unfortunately occur, the fund may be withdrawn from its peaceful destination, and applied in aid of other means, to the vigorous prosecution of the war, and, afterwards to the payment of any debt which may be contracted in consequence of its existence. And when peace shall be again restored, and the debt of the new war shall have been extinguished, the fund may be again appropriated to some fit object other than that of the ordinary expenses of government. Thus may this great resource be preserved and rendered subservient, in peace and in war, to the common benefit of all the States composing the Union.

"The inquiry remains, what ought to be the specific application of the fund under the restriction stated? After deducting the ten per cent. proposed to be set apart for the new States, a portion of the committee would have preferred that the residue should be applied to the objects of internal improvement, and colonization of the free blacks, under the direction of the general government. But a majority of the committee believes it better, as an alternative for the scheme of cession to the new States, and as being most likely to give general satisfaction, that the residue be divided among the twenty-four States, according to their federal representative population, to be applied to education, internal improvement. or colonization, or to the redemption of any existing debt contracted for internal improvements, as each State, judging for itself, shall deem most conformable with its own interests and policy. Assuming the annual product of the sales of the public lands to be three millions of dollars, the table hereto annexed, marked C, shows what each State would be entitled to receive, according to the principle of division which has been stated. In order that the propriety of the proposed appropriation should again, at a day not very far distant, be brought under the review of Congress, the committee would recommend that it be limited to a period of five years, subject to the condition of war not breaking out in the mean time. By an appropriation so restricted as to time, each State will be enabled to estimate the probable extent of its proportion, and to adapt its measures of education, improvement, colonization, or extinction of existing debt, accordingly.

"In conformity with the views and principles which the committee have now submitted, they beg leave to report a bill, entitled 'An act to appropriate, for a limited time, the proceeds of the sales of the public lands of the United States.'"

The impropriety of originating such a bill in the committee on manufactures was so clear that acquiescence in it was impossible. The chairman of the committee on public lands immediately moved its reference to that committee; and although there was a majority for it in the Senate, and for the bill as it came from the committee on manufactures, yet the reference was immediately voted; and Mr. Clay's report and bill sent to that committee, invested with general authority over the whole subject. That committee, through its chairman, Mr. King of Alabama, made a counter report, from which some extracts are here given:

"The committee ventures to suggest that the view which the committee on manufactures has taken of the federal domain, is fundamentally erroneous; that it has misconceived the true principles of national policy with respect to wild lands; and, from this fundamental mistake, and radical misconception, have resulted the great errors which pervade the whole structure of their report and bill.

"The committee on manufactures seem to contemplate the federal domain merely as an object of revenue, and to look for that revenue solely from the receivers of the land offices; when the science of political economy has ascertained such a fund to be chiefly, if not exclusively, valuable under the aspect of population and cultivation, and the eventual extraction of revenue from the people in its customary modes of taxes and imposts.

"The celebrated Edmund Burke is supposed to have expressed the sum total of political wisdom on this subject, in his well-known propositions to convert the forest lands of the British crown into private property; and this committee, to spare themselves further argument, and to extinguish at once a political fallacy which ought not to have been broached in the nineteenth century, will make a brief quotation from the speech of that eminent man.

"'The revenue to be derived from the sale of the forest lands will not be so considerable as many have imagined; and I conceive it would be unwise to screw it up to the utmost, or even to suffer bidders to enhance, according to their eagerness, the purchase of objects wherein the expense of that purchase may weaken the capital to be employed in their cultivation. * * * The principal revenue which I propose to draw from these uncultivated wastes, is to spring from the improvement and cultivation of the kingdom

events infinitely more advantageous to the revenues of the Crown, than the rents of the best landed estates which it can hold. * * * * It is thus that I would dispose of the unprofitable landed estates of the Crown—throw them into the mass of private property—by which they will come, through the course of circulation, and through the political secretions of the state, into well-regulated revenue. * * * * Thus would fall an expensive agency, with all the influence which attends it.'

"This committee takes leave to say that the sentiments here expressed by Mr. Burke are the inspirations of political wisdom; that their truth and justice have been tested in all ages and all countries, and particularly in our own age and in our own country. The history of the public lands of the United States furnishes the most instructive lessons of the inutility of sales, the value of cultivation, and the fallacy of large calculations. These lands were expected, at the time they were acquired by the United States, to pay off the public debt immediately, to support the government, and to furnish large surplusses for distribution. Calculations for a thousand millions were made upon them, and a charge of treachery was raised against General Hamilton, then Secretary of the Treasury, for his report in the year 1791, in which the fallacy of all these visionary calculations was exposed, and the real value of the lands soberly set down at an average of twenty cents per acre. Yet, after an experiment of nearly fifty years, it is found that the sales of the public lands, so far from paying the public debt, have barely defrayed the expenses of managing the lands; while the revenue derived from cultivation has paid both principal and interest of the debts of two wars, and supported the federal government in a style of expenditure infinitely beyond the conceptions of those who established it. The gross proceeds of the sales are but thirty-eight millions of dollars, from which the large expenses of the system are to be deducted; while the clear receipts from the customs, after paying all expenses of collection, amount to $556,443,830. This immense amount of revenue springs from the use of soil reduced to private property. For the duties are derived from imported goods; the goods are received in exchange for exports; and the exports, with a small deduction for the products of the sea, are the produce of the farm and the forest. This is a striking view, but it is only one half of the picture. The other half must be shown, and will display the cultivation of the soil, in its immense exports, as giving birth to commerce and navigation, and supplying employment to all the trades and professions connected with these two grand branches of national industry; while the business of selling the land is a meagre and barren operation, auxiliary to no useful occupation, injurious to the young States, by exhausting them of their currency, and extending the patronage of the federal government in the complicated machinery of the land office department. Such has been the difference between the revenue received from the sales and from the cultivation of the land; but no powers of cultivation can carry out the difference, and show what it will be: for, while the sale of the land is a single operation, and can be performed but once, the extraction of revenue from its cultivation is an annual and perpetual process, increasing in productiveness through all time, with the increase of population, the amelioration of soils, the improvement of the country, and the application of science to the industrial pursuits.

"This committee have said that the bill reported by the Committee on Manufactures, to divide the proceeds of the sales of public lands among the several States, for a limited time, is a bill wholly inadmissible in principle, and essentially erroneous in its details.

"They object to the principle of the bill, because it proposes to change—and that most injuriously and fatally for the new States, the character of their relation to the federal government, on the subject of the public lands. That relation, at present, imposes on the federal government the character of a trustee, with the power and the duty of disposing of the public lands in a liberal and equitable manner. The principle of the bill proposes to substitute an individual State interest in the lands, and would be perfectly equivalent to a division of the lands among the States; for, the power of legislation being left in their hands, with a direct interest in their sales, the old and populous States would necessarily consider the lands as their own, and govern their legislation accordingly. Sales would be forbid or allowed; surveys stopped or advanced; prices raised or lowered; donations given or denied; old French and Spanish claims confirmed or rejected; settlers ousted; emigrations stopped, precisely as it suited the interest of the old States; and this interest, in every instance, would be precisely opposite to the interest of the new States. In vain would some just men wish to act equitably by these new States; their generous efforts would expose them to attacks at home. A new head of electioneering would be opened; candidates for Congress would rack their imaginations, and exhaust their arithmetic, in the invention and display of rival projects for the extraction of gold from the new States; and he that would promise best for promoting the emigration of dollars from the new States, and preventing the emigration of people to them, would be considered the best qualified for federal legislation. If this plan of distribution had been in force heretofore, the price of the public lands would not have been reduced, in 1819–'20, nor the relief laws passed, which exonerated the new States from a debt of near twenty millions of dollars. If adopted now, these States may bid adieu to their sovereignty and independence! They will become the feudatory vassals of the paramount States! Their subjection and dependence will be without limit

or remedy. The five years mentioned in the bill had as well be fifty or five hundred. The State that would surrender its sovereignty, for ten per centum of its own money, would eclipse the folly of Esau, and become a proverb in the annals of folly with those who have sold their birthright for 'a mess of pottage.'"

After these general objections to the principle and policy of the distribution project, the report of the Committee on Public Lands went on to show its defects, in detail, and to exhibit the special injuries to which it would subject the new States, in which the public lands lay. It said:

"The details of the bill are pregnant with injustice and unsound policy.

"1. The rule of distribution among the States makes no distinction between those States which did or did not make cessions of their vacant land to the federal government. Massachusetts and Maine, which are now selling and enjoying their vacant lands in their own right, and Connecticut, which received a deed for two millions of acres from the federal government, and sold them for her own benefit, are put upon an equal footing with Virginia, which ceded the immense domain which lies in the forks of the Ohio and Mississippi, and Georgia, which ceded territory for two States. This is manifestly unjust.

"2. The bill proposes benefits to some of the States, which they cannot receive without dishonor, nor refuse without pecuniary prejudice. Several States deny the power of the federal government to appropriate the public moneys to objects of internal improvement or to colonization. A refusal to accept their dividends would subject such States to loss; to receive them, would imply a sale of their constitutional principles for so much money. Considerations connected with the harmony and perpetuity of our confederacy should forbid any State to be compelled to choose between such alternatives.

"3. The public lands, in great part, were granted to the federal government to pay the debts of the Revolutionary War; it is notorious that other objects of revenue, to wit, duties on imported goods, have chiefly paid that debt. It would seem, then, to be just to the donors of the land, after having taxed them in other ways to pay the debt, that the land should go in relief of their present taxes; and that, so long as any revenue may be derived from them, it should go into the common treasury, and diminish, by so much, the amount of their annual contributions.

"4. The colonization of free people of color, on the western coast of Africa, is a delicate question for Congress to touch. It connects itself indissolubly with the slave question, and cannot be agitated by the federal legislature, without rousing and alarming the apprehensions of all the slaveholding States, and lighting up the fires of the extinguished conflagration which lately blazed in the Missouri question. The harmony of the States, and the durability of this confederacy, interdict the legislation of the federal legislature upon this subject. The existence of slavery in the United States is local and sectional. It is confined to the Southern and Middle States. If it is an evil, it is an evil to them, and it is their business to say so. If it is to be removed, it is their business to remove it. Other States put an end to slavery, at their own time, and in their own way, and without interference from federal or State legislation, or organized societies. The rights of equality demand, for the remaining States, the same freedom of thought and immunity of action. Instead of assuming the business of colonization, leave it to the slaveholding States to do as they please; and leave them their resources to carry into effect their resolves. Raise no more money from them than the exigencies of the government require, and then they will have the means, if they feel the inclination, to rid themselves of a burden which it is theirs to bear and theirs to remove.

"5. The sum proposed for distribution, though nominally to consist of the net proceeds of the sales of the public lands, is, in reality, to consist of their gross proceeds. The term net, as applied to revenue from land offices or custom-houses, is quite different. In the latter, its signification corresponds with the fact, and implies a deduction of all the expenses of collection; in the former, it has no such implication, for the expenses of the land system are defrayed by appropriations out of the treasury. To make the whole sum received from the land offices a fund for distribution, would be to devolve the heavy expenses of the land system upon the custom-house revenue: in other words, to take so much from the custom-house revenue to be divided among the States. This would be no small item. According to the principles of the account drawn up against the lands, it would embrace—

"1. Expenses of the general land office.

"2. Appropriations for surveying.

"3. Expenses of six surveyor generals' offices.

"4. Expenses of forty-four land offices.

"5. Salaries of eighty-eight registers and receivers.

"6. Commissions on sales to registers and receivers.

"7. Allowance to receivers for depositing money.

"8. Interest on money paid for extinguishing Indian titles.

"9. Annuities to Indians.

"10. Future Indian treaties for extinguishing title.

"11. Expenses of annual removal of Indians.

"These items exceed a million of dollars. They are on the increase, and will continue to grow at least until the one hundred and thirteen million five hundred and seventy-seven thousand eight hundred and sixty-nine acres of land within the limits of the States and territories now covered by Indian title shall be released from such title.

The reduction of these items, present and to come, from the proposed fund for distribution, must certainly be made to avoid a contradiction between the profession and the practice of the bill; and this reduction might leave little or nothing for division among the distributees. The gross proceeds of the land sales for the last year were large; they exceeded three millions of dollars; but they were equally large twelve years ago, and gave birth to some extravagant calculations then, which vanished with a sudden decline of the land revenue to less than one million. The proceeds of 1819 were $3,274,422; those of 1823 were $916,523. The excessive sales twelve years ago resulted from the excessive issue of bank paper, while those of 1831 were produced by the several relief laws passed by Congress. A detached year is no evidence of the product of the sales; an average of a series of years presents the only approximation to correctness; and this average of the last ten years would be about one million and three quarters. So that after all expenses are deducted, with the five per centum now payable to the new States, and ten per centum proposed by the bill, there may be nothing worth dividing among the States; certainly nothing worth the alarm and agitation which the assumption of the colonization question must excite among the slaveholding States; nothing worth the danger of compelling the old States which deny the power of federal internal improvement, to choose between alternatives which involve a sale of their principles on one side, or a loss of their dividends on the other; certainly nothing worth the injury to the new States, which must result from the conversion of their territory into the private property of those who are to have the power of legislation over it, and a direct interest in using that power to degrade and impoverish them."

The two sets of reports were printed in extra numbers, and the distribution bill largely debated in the Senate, and passed that body: but it was arrested in the House of Representatives. A motion to postpone it to a day beyond the session —equivalent to rejection—prevailed by a small majority: and thus this first attempt to make distribution of public property, was, for the time, gotten rid of.

CHAPTER LXXI.

SETTLEMENT OF FRENCH AND SPANISH LAND CLAIMS.

It was now near thirty years since the province of Louisiana had been acquired, and with it a mass of population owning and inhabiting lands, the titles to which in but few instances ever had been perfected into complete grants; and the want of which was not felt in a new country where land was a gratuitous gift to every cultivator, and where the government was more anxious for cultivation than the people were to give it. The transfer of the province from France and Spain to the United States, found the mass of the land titles in an inchoate state; and coming under a government which made merchandise out of the soil, and among a people who had the Anglo-Saxon avidity for landed property, some legislation and tribunal was necessary to separate the perfect from the imperfect titles; and to provide for the examination and perfection of the latter. The treaty of cession protected every thing that was "property;" and an inchoate title fell as well within that category as a perfect one. Without the treaty stipulation the law of nations would have operated the same protection, and to the same degree; and that in the case of a conquered as well as of a ceded people. The principle was acknowledged: the question was to apply it, and to carry out the imperfect titles as the ceding government would have done, if it had continued. This was attempted through boards of commissioners, placed under limitations and restrictions, which cut off masses of claims to which there was no objection except in the confirming law; and with the obligation of reporting to Congress for its sanction the claims which it found entitled to confirmation: —a condition which, in the distance of the lands and claimants from the seat of government, their ignorance of our laws and customs, their habitude to pay for justice, and their natural distrust of a new and alien domination, was equivalent in its effects to the total confiscation of most of the smaller claims, and the quarter or the half confiscation of the larger ones in the division they were compelled to make with agents—or in the forced sales which despair, or necessity forced upon them. This state of things had been going on for almost thirty years in all Louisiana—ameliorated occasionally by slight enlargements of the powers of the boards, and afterwards of the courts to which the business was transferred, but failing at two essential points, *first*, of acknowledging the validity of all claims which might in fact have been completed if the French or Spanish government had continued under which they originated; *secondly*

in not providing a cheap, speedy and local tribunal to decide summarily upon claims, and definitively when their decisions were in their favor.

In this year—but after an immense number of people had been ruined, and after the country had been afflicted for a generation with the curse of unsettled land titles—an act was passed, founded on the principle which the case required, and approximating to the process which was necessary to give it effect. The act of 1832 admitted the validity of all inchoate claims—all that might in fact have been perfected under the previous governments; and established a local tribunal to decide on the spot, making two classes of claims—one coming under the principle acknowledged, the other not coming under that principle, and destitute of merit in law or equity—but with the ultimate reference of their decisions to Congress for its final sanction. The principle of the act, and its mode of operation, was contained in the first section, and in these words:

"That it shall be the duty of the recorder of land titles in the State of Missouri, and two commissioners to be appointed by the President of the United States, by and with the advice and consent of the Senate, to examine all the unconfirmed claims to land in that State, heretofore filed in the office of the said recorder, according to law, founded upon any incomplete grant, concession, warrant, or order of survey, issued by the authority of France or Spain, prior to the tenth day of March, one thousand eight hundred and four; and to class the same so as to show, first, what claims, in their opinion, would, in fact, have been confirmed, according to the laws, usages, and customs of the Spanish government, and the practices of the Spanish authorities under them, at New Orleans, if the government under which said claims originated had continued in Missouri; and secondly, what claims, in their opinion, are destitute of merit, in law or equity, under such laws, usages, customs, and practice of the Spanish authorities aforesaid; and shall also assign their reasons for the opinions so to be given. And in examining and classing such claims, the recorder and commissioners shall take into consideration, as well the testimony heretofore taken by the boards of commissioners and recorder of land titles upon those claims, as such other testimony as may be admissible under the rules heretofore existing for taking such testimony before said boards and recorder: and all such testimony shall be taken within twelve months after the passage of this act."

Under this act a thirty years' disturbance of land titles was closed (nearly), in that part of Upper Louisiana, now constituting the State of Missouri. The commissioners executed the act in the liberal spirit of its own enactment, and Congress confirmed all they classed as coming under the principles of the act. In other parts of Louisiana, and in Florida, the same harassing and ruinous process had been gone through in respect to the claims of foreign origin—limitations, as in Missouri, upon the kind of claims which might be confirmed, excluding minerals and saline waters—limitations upon the quantity to be confirmed, so as to split or grant, and divide it between the grantee and the government—the former having to divide again with an agent or attorney—and limitations upon the inception of the titles which might be examined, so as to confine the origination to particular officers, and forms. The act conformed to all previous ones, of requiring no examination of a title which was complete under the previous governments.

CHAPTER LXXII.

"EFFECTS OF THE VETO."

Under this caption a general register commenced in all the newspapers opposed to the election of General Jackson (and they were a great majority of the whole number published), immediately after the delivery of the veto message, and were continued down to the day of election, all tending to show the disastrous consequences upon the business of the country, and upon his own popularity, resulting from that act. To judge from these items it would seem that the property of the country was nearly destroyed, and the General's popularity entirely; and that both were to remain in that state until the bank was rechartered. Their character was to show the decline which had taken place in the price of labor, produce, and property—the stoppage and suspension of buildings, improvements, and useful enterprises—the renunciation of the President by his old friends—the scarcity of money and the high rate of interest—and the consequent pervading distress of the whole community. These lugubrious memorandums of calamities produced by the conduct of one man

were duly collected from the papers in which they were chronicled and registered in "Niles' Register," for the information of posterity; and a few items now selected from the general registration will show to what extent this business of distressing the country—(taking the facts to be true), or of alarming it (taking them to be false), was carried by the great moneyed corporation. which, according to its own showing, had power to destroy all local banks; and consequently to injure the whole business of the community. The following are a few of these items—a small number of each class, by way of showing the character of the whole:

"On the day of the receipt of the President's bank veto in New-York, four hundred and thirty-seven shares of United States Bank stock were sold at a decline of four per centum from the rates of the preceding day. We learn from Cincinnati that, within two days after the veto reached that city, building-bricks fell from five dollars to three dollars per thousand. A general consternation is represented to have pervaded the city. An intelligent friend of General Jackson, at Cincinnati, states, as the opinion of the best informed men there, that the veto has caused a depreciation of the real estate of the city, of from twenty-five to thirty-three and one third per cent."—"A thousand people assembled at Richmond, Kentucky, to protest against the veto."—"The veto reached a meeting of citizens, in Mason county, Kentucky, which had assembled to hear the speeches of the opposing candidates for the legislature, on which two of the administration candidates immediately withdrew themselves from the contest, declaring that they could support the administration no longer."—"Lexington, Kentucky: July 25th. A call, signed by fifty citizens of great respectability, formerly supporters of General Jackson, announced their renunciation of him, and invited all others, in the like situation with themselves, to assemble in public meeting and declare their sentiments. A large and very respectable meeting ensued."—"Louisville, Kentucky: July 18. Forty citizens, ex-friends of General Jackson, called a meeting, to express their sentiments on the veto, declaring that they could no longer support him. In consequence, one of the largest meetings ever held in Louisville was convened, and condemned the veto, the anti-tariff and anti-internal improvement policy of General Jackson, and accused him of a breach of promise, in becoming a second time a candidate for the Presidency."—"At Pittsburg, seventy former friends of General Jackson called a meeting of those who had renounced him, which was numerously and respectably attended, the veto condemned, and the bank applauded as necessary to the prosperity of the country."—"Irish meeting in Philadelphia. A call, signed by above two thousand naturalized Irishmen, seceding from General Jackson, invited their fellow-countrymen to meet and choose between the tyrant and the bank, and gave rise to a numerous assemblage in Independence Square, at which strong resolutions were adopted, renouncing Jackson and his measures, opposing his re-election and sustaining the bank."—"The New Orleans emporium mentions, among other deleterious effects of the bank veto, at that place, that one of the State banks had already commenced discounting four months' paper, at eight per centum."—"Cincinnati farmers look here! We are credibly informed that several merchants in this city, in making contracts for their winter supplies of pork, are offering to contract to pay two dollars fifty cents per hundred, if Clay is elected, and one dollar fifty cents, if Jackson is elected. Such is the effect of the veto. This is something that people can understand."—"Baltimore. A great many mechanics are thrown out of employment by the stoppage of building. The prospect ahead is, that we shall have a very distressing winter. There will be a swift reduction of prices to the laboring classes. Many who subsisted upon labor, will lack regular employment, and have to depend upon chance or charity; and many will go supperless to bed who deserve to be filled."—"Cincinnati. Facts are stubborn things. It is a fact that, last year, before this time, $300,000 had been advanced, by citizens of this place, to farmers for pork, and now, not one dollar. So much for the veto."—"Brownsville, Pennsylvania. We understand, that a large manufacturer has discharged all his hands, and others have given notice to do so. We understand, that not a single steamboat will be built this season, at Wheeling, Pittsburg, or Louisville."—"Niles' Register editorial. No King of England has dared a practical use of the word 'veto,' for about two hundred years, or more; and it has become obsolete in the United Kingdom of Great Britain; and Louis Philippe would hardly retain his crown three days, were he to veto a deliberate act of the two French Chambers, though supported by an army of 100,000 men."

All this distress and alarm, real and factitious, was according to the programme which prescribed it, and easily done by the bank, and its branches in the States: its connection with money-dealers and brokers; its power over its debtors, and its power over the thousand local banks, which it could destroy by an exertion of its strength, or raise up by an extension of its favor. It was a wicked and infamous attempt, on the part of the great moneyed corporation, to govern the election by operating on the business and the fears of the people—destroying some and alarming others.

CHAPTER LXXIII.

PRESIDENTIAL ELECTION OF 1832.

General Jackson and Mr. Van Buren were the candidates, on one side; Mr. Clay and Mr. John Sergeant, of Pennsylvania, on the other, and the result of no election had ever been looked to with more solicitude. It was a question of systems and of measures, and tried in the persons of men who stood out boldly and unequivocally in the representation of their respective sides. Renewal of the national bank charter, continuance of the high protective policy, distribution of the public land money, internal improvement by the federal government, removal of the Indians, interference between Georgia and the Cherokees, and the whole American system were staked on the issue, represented on one side by Mr. Clay and Mr. Sergeant, and opposed, on the other, by General Jackson and Mr. Van Buren. The defeat of Mr. Clay, and the consequent condemnation of his measures, was complete and overwhelming. He received but forty-nine votes out of a totality of two hundred and eighty-eight! And this result is not to be attributed, as done by Mons. de Tocqueville, to military fame. General Jackson was now a tried statesman, and great issues were made in his person, and discussed in every form of speech and writing, and in every forum, State, and federal—from the halls of Congress to township meetings—and his success was not only triumphant but progressive. His vote was a large increase upon the preceding one of 1828, as that itself had been upon the previous one of 1824. The result was hailed with general satisfaction, as settling questions of national disturbance, and leaving a clear field, as it was hoped, for future temperate and useful legislation. The vice-presidential election, also, had a point and a lesson in it. Besides concurring with General Jackson in his systems of policy, Mr. Van Buren had, in his own person, questions which concerned himself, and which went to his character as a fair and honorable man. He had been rejected by the Senate as minister to the court of Great Britain, under circumstances to give *éclat* to the rejection, being then at his post; and on accusations of prostituting official station to party intrigue and elevation, and humbling his country before Great Britain to obtain as a favor what was due as a right. He had also been accused of breaking up friendship between General Jackson and Mr. Calhoun, for the purpose of getting a rival out of the way—contriving for that purpose the dissolution of the cabinet, the resuscitation of the buried question of the punishment of General Jackson in Mr. Monroe's cabinet, and a system of intrigues to destroy Mr. Calhoun—all brought forward imposingly in senatorial and Congress debates, in pamphlets and periodicals, and in every variety of speech and of newspaper publication; and all with the avowed purpose of showing him unworthy to be elected Vice-President. Yet, he was elected—and triumphantly—receiving the same vote with General Jackson, except that of Pennsylvania, which went to one of her own citizens, Mr. William Wilkins, then senator in Congress, and afterwards Minister to Russia, and Secretary of War. Another circumstance attended this election, of ominous character, and deriving emphasis from the state of the times. South Carolina refused to vote in it; that is to say, voted with neither party, and threw away her vote upon citizens who were not candidates, and who received no vote but her own; namely, Governor John Floyd of Virginia, and Mr. Henry Lee of Massachusetts: a dereliction not to be accounted for upon any intelligible or consistent reason, seeing that the rival candidates held the opposite sides of the system of which the State complained, and that the success of one was to be its overthrow; of the other, to be its confirmation. This circumstance, coupled with the nullification attitude which the State had assumed, gave significance to this separation from the other States in the matter of the election: a separation too marked not to be noted, and interpreted by current events too clearly to be misunderstood. Another circumstance attended this election, of a nature not of itself to command commemoration, but worthy to be remembered for the lesson it reads to all political parties founded upon one idea, and especially when that idea has nothing political in it; it was the anti-masonic vote of the State of Vermont, for Mr. Wirt, late United States Attorney-General, for President; and for Mr. Amos Ellmaker of Pennsylvania, for Vice-President. The cause of that vote was this:

some years before, a citizen of New-York, one Mr. Morgan, a member of the Freemason fraternity, had disappeared, under circumstances which induced the belief that he had been secretly put to death, by order of the society, for divulging their secret. A great popular ferment grew out of this belief, spreading into neighboring States, with an outcry against all masons, and all secret societies, and a demand for their suppression. Politicians embarked on this current; turned it into the field of elections, and made it potent in governing many. After obtaining dominion over so many local and State elections, "anti-masonry," as the new enthusiasm was called, aspired to higher game, undertook to govern presidential candidates, subjecting them to interrogatories upon the point of their masonic faith; and eventually set up candidates of their own for these two high offices. The trial was made in the persons of Messrs. Wirt and Ellmaker, and resulted in giving them seven votes—the vote of Vermont alone—and, in showing the weakness of the party, and its consequent inutility as a political machine. The rest is soon told. Anti-masonry soon ceased to have a distinctive existence; died out, and, in its death, left a lesson to all political parties founded in one idea—especially when that idea has nothing political in it.

CHAPTER LXXIV.

FIRST ANNUAL MESSAGE OF PRESIDENT JACKSON AFTER HIS SECOND ELECTION.

This must have been an occasion of great and honest exultation to General Jackson—a re-election after a four years' trial of his administration, over an opposition so formidable, and after having assumed responsibilities so vast, and by a majority so triumphant—and his message directed to the same members, who, four months before, had been denouncing his measures, and consigning himself to popular condemnation. He doubtless enjoyed a feeling of elation when drawing up that message, and had a right to the enjoyment; but no symptom of that feeling appeared in the message itself, which, abstaining from all reference to the election, wholly confined itself to business topics, and in the subdued style of a business paper. Of the foreign relations he was able to give a good, and therefore, a brief account; and proceeding quickly to our domestic affairs gave to each head of these concerns a succinct consideration. The state of the finances, and the public debt, claimed his first attention. The receipts from the customs were stated at twenty-eight millions of dollars—from the lands at two millions—the payments on account of the public debt at eighteen millions;—and the balance remaining to be paid at seven millions—to which the current income would be more than adequate notwithstanding an estimated reduction of three or four millions from the customs in consequence of reduced duties at the preceding session. He closed this head with the following view of the success of his administration in extinguishing a national debt, and his congratulations to Congress on the auspicious and rare event:

"I cannot too cordially congratulate Congress and my fellow-citizens on the near approach of that memorable and happy event, the extinction of the public debt of this great and free nation. Faithful to the wise and patriotic policy marked out by the legislation of the country for this object, the present administration has devoted to it all the means which a flourishing commerce has supplied, and a prudent economy preserved, for the public treasury. Within the four years for which the people have confided the executive power to my charge, fifty-eight millions of dollars will have been applied to the payment of the public debt. That this has been accomplished without stinting the expenditures for all other proper objects, will be seen by referring to the liberal provision made, during the same period, for the support and increase of our means of maritime and military defence, for internal improvements of a national character, for the removal and preservation of the Indians, and, lastly, for the gallant veterans of the Revolution."

To the gratifying fact of the extinction of the debt, General Jackson wished to add the substantial benefit of release from the burthens which it imposed—an object desirable in itself, and to all the States, and particularly to those of the South, greatly dissatisfied with the burthens of the tariff, and with the large expenditures which took place in other quarters of the Union. Sixteen millions of dollars, he stated to be the outlay of the federal government for all objects exclusive of the public debt; so that ten millions might be subject to reduction:

and this to be effected so as to retain a protecting duty in favor of the articles essential to our defence and comfort in time of war. On this point he said:

"Those who take an enlarged view of the condition of our country, must be satisfied that the policy of protection must be ultimately limited to those articles of domestic manufacture which are indispensable to our safety in time of war. Within this scope, on a reasonable scale, it is recommended by every consideration of patriotism and duty, which will doubtless always secure to it a liberal and efficient support. But beyond this object, we have already seen the operation of the system productive of discontent. In some sections of the republic, its influence is deprecated as tending to concentrate wealth into a few hands, and as creating those germs of dependence and vice which, in other countries, have characterized the existence of monopolies, and proved so destructive of liberty and the general good. A large portion of the people, in one section of the republic, declares it not only inexpedient on these grounds, but as disturbing the equal relations of property by legislation, and therefore unconstitutional and unjust."

On the subject of the public lands his recommendations were brief and clear, and embraced the subject at the two great points which distinguish the statesman's view from that of a mere politician. He looked at them under the great aspect of settlement and cultivation, and the release of the new States from the presence of a great foreign landholder within their limits. The sale of the salable parts to actual settlers at what they cost the United States, and the cession of the unsold parts within a reasonable time to the States in which they lie, was his wise recommendation; and thus expressed:

"It seems to me to be our true policy that the public lands shall cease, as soon as practicable, to be a source of revenue, and that they be sold to settlers in limited parcels, at a price barely sufficient to reimburse to the United States the expense of the present system, and the cost arising under our Indian compacts. The advantages of accurate surveys and undoubted titles, now secured to purchasers, seem to forbid the abolition of the present system, because none can be substituted which will more perfectly accomplish these important ends. It is desirable, however, that, in convenient time, this machinery be withdrawn from the States, and that the right of soil, and the future disposition of it, be surrendered to the States, respectively, in which it lies.

"The adventurous and hardy population of the West, besides contributing their equal share of taxation under our impost system, have, in the progress of our government, for the lands they occupy, paid into the treasury a large proportion of forty millions of dollars, and, of the revenue received therefrom, but a small part has been expended amongst them. When, to the disadvantage of their situation in this respect, we add the consideration that it is their labor alone which gives real value to the lands, and that the proceeds arising from their sale are distributed chiefly among States which had not originally any claim to them, and which have enjoyed the undivided emolument arising from the sale of their own lands, it cannot be expected that the new States will remain longer contented with the present policy, after the payment of the public debt. To avert the consequences which may be apprehended from this cause, to put an end for ever to all partial and interested legislation on the subject, and to afford to every American citizen of enterprise, the opportunity of securing an independent freehold, it seems to me, therefore, best to abandon the idea of raising a future revenue out of the public lands."

These are the grounds upon which the members from the new States should unite and stand. The Indian title has been extinguished within their limits; the federal title should be extinguished also. A stream of agriculturists is constantly pouring into their bosom—many of them without the means of purchasing lan —and to all of them the whole of their means needed in its improvement and cultivation. Donations then, or sales at barely reimbursing prices, is the wise policy of the government; and a day should be fixed by Congress in every State (regulated by the quantity of public land within its limits), after which the surrender of the remainder should take effect within the State; and the whole federal machinery for the sale of the lands be withdrawn from it. In thus filling the new States and Territories with independent landholders—with men having a stake in the soil—the federal government would itself be receiving, and that for ever, the two things of which every government has need, namely, perennial revenue, and military service. The cultivation of the lands would bring in well-regulated revenue through the course of circulation, and, what Mr. Burke calls, "the political secretions of the State." Their population would be a perpetual army for the service of the country when needed. It is the true and original defence of nations—the incitement and reward for defence—a freehold, and arms to de-

fend it. It is a source of defence which preceded standing armies, and should supersede them; and pre-eminently belongs to a republic, and above all to the republic of the United States, so abounding in the means of creating these defenders, and needing them so much. To say nothing of nearer domains, there is the broad expanse from the Mississippi to the Pacific ocean, all needing settlers and defenders. Cover it with freeholders, and you have all the defenders that are required—all that interior savages, or exterior foreigners, could ever render necessary to appear in arms. In a mere military point of view, and as assuring the cheap and efficient defence of the nation, our border, and our distant public territory, should be promptly covered with freehold settlers.

On the subject of the removal of the Indians, the message said:

"I am happy to inform you, that the wise and humane policy of transferring from the eastern to the western side of the Mississippi, the remnants of our aboriginal tribes, with their own consent, and upon just terms, has been steadily pursued, and is approaching, I trust, its consummation. By reference to the report of the Secretary of War, and to the documents submitted with it, you will see the progress which has been made since your last session in the arrangement of the various matters connected with our Indian relations. With one exception, every subject involving any question of conflicting jurisdiction, or of peculiar difficulty, has been happily disposed of, and the conviction evidently gains ground among the Indians, that their removal to the country assigned by the United States for their permanent residence, furnishes the only hope of their ultimate prosperity.

"With that portion of the Cherokees, however, living within the State of Georgia, it has been found impracticable, as yet, to make a satisfactory adjustment. Such was my anxiety to remove all the grounds of complaint, and to bring to a termination the difficulties in which they are involved, that I directed the very liberal propositions to be made to them which accompany the documents herewith submitted. They cannot but have seen in these offers the evidence of the strongest disposition, on the part of the government, to deal justly and liberally with them. An ample indemnity was offered for their present possessions, a liberal provision for their future support and improvement, and full security for their private and political rights. Whatever difference of opinion may have prevailed respecting the just claims of these people, there will probably be none respecting the liberality of the propositions, and very little respecting the expediency of their immediate acceptance. They were, however, rejected, and thus the position of these Indians remains unchanged, as do the views communicated in my message to the Senate, of February 22, 1831."

The President does not mention the obstacles which delayed the humane policy of transferring the Indian tribes to the west of the Mississippi, nor allude to the causes which prevented the remaining Cherokees in Georgia from accepting the liberal terms offered them, and joining the emigrated portion of their tribe on the Arkansas; but these obstacles and causes were known to the public, and the knowledge of them was carried into the parliamentary, the legislative, and the judicial history of the country. These removals were seized upon by party spirit as soon as General Jackson took up the policy of his predecessors, and undertook to complete what they had began. His injustice and tyranny to the Indians became a theme of political party vituperation; and the South, and Georgia especially, a new battle-field for political warfare. The extension of her laws and jurisdiction over the part of her territory still inhabited by a part of the Cherokees, was the signal for concentrating upon that theatre the sympathies, and the interference of politicians and of missionaries. Congress was appealed to; and refused the intervention of its authority. The Supreme Court was applied to to stay, by an injunction, the operation of the laws of Georgia on the Indian part of the State; and refused the application, for want of jurisdiction of the question. It was applied to to bring the case of the missionaries before itself, and did so, reversing the judgment of the Georgia State Court, and pronouncing one of its own; which was disregarded. It was applied to to reverse the judgment in the case of Tassells, and the writ of error was issued to bring up the case; and on the day appointed Tassells was hanged. The missionaries were released as soon as they ceased their appeals to the Supreme Court, and addressed themselves to the Governor of Georgia, to whom belonged the pardoning power; and the correspondence and communications which took place between themselves and Governor Lumpkin showed that they were emissaries, as well as missionaries, and acting a prescribed part for the "good of the country"—as they expressed it. They came from the North, and returned to it as soon as released. All Georgia was outraged, and justly, at this political interference in her

affairs, and this intrusive philanthropy in behalf of Indians to whom she gave the same protection as to her own citizens, and at these attempts, so repeatedly made to bring her before the Supreme Court. Her governors (Troup, Gilmer, and Lumpkin,) to whom it successively belonged to represent the rights and dignity of the State, did so with firmness and moderation; and, in the end, all her objects were attained, and the interference and intrusion ceased; and the issue of the presidential election rebuked the political and ecclesiastical intermeddlers in her affairs.

A passage in the message startled the friends of the Bank of the United States, and, in fact, took the public by surprise. It was an intimation of the insolvency of the bank, and of the insecurity of the public deposits therein; and a recommendation to have the affairs of the institution thoroughly investigated. It was in these terms:

"Such measures as are within the reach of the Secretary of the Treasury have been taken to enable him to judge whether the public deposits in that institution may be regarded as entirely safe; but as his limited power may prove inadequate to this object, I recommend the subject to the attention of Congress, under the firm belief that it is worthy their serious investigation. An inquiry into the transactions of the institution, embracing the branches as well as the principal bank, seems called for by the credit which is given throughout the country to many serious charges impeaching its character, and which, if true, may justly excite the apprehension that it is no longer a safe depository of the money of the people."

This recommendation gave rise to proceedings in Congress, which will be noted in their proper place. The intimation of insolvency was received with scorn by the friends of the great corporation—with incredulity by the masses—and with a belief that it was true only by the few who closely observed the signs of the times, and by those who confided in the sagacity and provident foresight of Jackson (by no means inconsiderable either in number or judgment). For my own part I had not suspicioned insolvency when I commenced my opposition to the renewed charter; and was only brought to that suspicion, and in fact, conviction, by seeing the flagrant manner in which the institution resisted investigation, when proposed under circumstances which rendered it obligatory to its honor; and which could only be so resisted from a consciousness that, if searched, something would be found worse than any thing charged. The only circumstance mentioned by the President to countenance suspicion was the conduct of the bank in relation to the payment of five millions of the three per cent. stock, ordered to have been paid at the bank in the October preceding (and where the money, according to its returns, was in deposit); and instead of paying which the bank secretly sent an agent to London to obtain delay from the creditors for six, nine and twelve months; and even to purchase a part of the stock on its account—which was done—and in clear violation of its charter (which forbids the institution to traffic in the stocks of the United States). This delay, with the insufficient and illegal reason given for it (for no reason could be legal or sufficient while admitting the money to be in her hands, and that which the bank gave related to the cholera, and the ever-ready excuse of accommodation to the public), could only be accounted for from an inability to produce the funds; in other words, that while her returns to the treasury admitted she had the money, the state of her vaults showed that she had it not. This view was further confirmed by her attempt to get a virtual loan to meet the payment, if delay could not be obtained, or the stock purchased, in the application to the London house of the Barings to draw upon it for the amount uncovered by delay or by purchase.

But the salient passage in the message—the one which gave it a new and broad emphasis in the public mind—was the part which related to the attitude of South Carolina. The proceedings of that State had now reached a point which commanded the attention of all America, and could not be overlooked in the President's message. Organized opposition, and forcible resistance to the laws, took their open form; and brought up the question of the governmental enforcement of these laws, or submission to their violation. The question made a crisis; and the President thus brought the subject before Congress:

"It is my painful duty to state, that, in one quarter of the United States, opposition to the revenue laws has risen to a height which threatens to thwart their execution, if not to endanger the integrity of the Union. Whatever obstructions may be thrown in the way of the judicial authorities of the general government, it is hoped they will be able, peaceably, to over-

come them by the prudence of their own officers, and the patriotism of the people. But should this reasonable reliance on the moderation and good sense of all portions of our fellow-citizens be disappointed, it is believed that the laws themselves are fully adequate to the suppression of such attempts as may be immediately made. Should the exigency arise, rendering the execution of the existing laws impracticable, from any cause whatever, prompt notice of it will be given to Congress, with the suggestion of such views and measures as may be deemed necessary to meet it."

Nothing could be more temperate, subdued, and even conciliatory than the tone and language of this indispensable notice. The President could not avoid bringing the subject to the notice of Congress; and could not have done it in a more unexceptionable manner. His language was that of justice and mildness. The peaceful administration of the laws were still relied upon, and if any thing further became necessary he promised an immediate notice to Congress. In the mean time, and in a previous part of his message, he had shown his determination, so far as it depended on him, to remove all just complaint of the burthens of the tariff by effecting a reduction of many millions of the duties:—a dispensation permitted by the extinction of the public debt within the current year, and by the means already provided, and which would admit of an abolition of ten to twelve millions of dollars of duties.

CHAPTER LXXV.

BANK OF THE UNITED STATES—DELAY IN PAYING THE THREE PER CENTS—COMMITTEE OF INVESTIGATION.

The President in his message had made two recommendations which concerned the bank—one that the seven millions of stock held therein by the United States should be sold; the other that a committee should be appointed to investigate its condition. On the question of referring the different parts of the message to appropriate committees. Mr. Speight, of North Carolina, moved that this latter clause be sent to a select committee; to which Mr. Wayne, of Georgia, proposed an amendment, that the committee should have power to bring persons before them, and to examine them on oath, and to call upon the bank and its branches for papers. This motion gave rise to a contest similar to that of the preceding session on the same point, and by the same actors—and with the same result in favor of the bank—the debate being modified by some fresh and material incidents. Mr. Wickliffe, of Kentucky, had previously procured a call to be made on the Secretary of the Treasury for the report which his agent was employed in making upon the condition of the bank; and wished the motion for the committee to be deferred until that report came in. He said:

"He had every confidence, both from his own judgment and from information in his possession, that when the resolution he had offered should receive its answer, and the House should have the report of the agent sent by the Secretary of the Treasury to inquire into the affairs of the bank, with a view to ascertain whether it was a safe depository for the public funds, the answer would be favorable to the bank and to the entire security of the revenue. Mr. W. said he had hoped that the resolution he had offered would have superseded the necessity of another bank discussion in that House, and of the consequences upon the financial and commercial operations of the country, and upon the credit of our currency. He had not understood, from a hasty reading of the report of the Secretary of the Treasury, that that officer had expressed any desire for the appointment of any committee on the subject. The secretary said that he had taken steps to obtain such information as was within his control, but that it was possible he might need further powers hereafter. What had already been the effect throughout the country of the broadside discharged by the message at the bank? Its stock had, on the reception of that message, instantly fallen down to 104 per cent. Connected with this proposition to sell the stock, a loss had already been incurred by the government of half a million of dollars. What further investigations did gentlemen require? What new bill of indictment was to be presented? There was one in the secretary's report, which was also alluded to in the message: it was, that the bank had, by its unwaranted action, prevented the government from redeeming the three per cent. stock at the time it desired. But what was the actual state of the fact? What had the bank done to prevent such redemption? It had done nothing more nor less than what it had been required by the government to do."

The objection to inquiry, made by Mr. Wickliffe, that it depreciated the stock, and made a loss of the difference to its holders, was entirely fallacious, as fluctuations in the price of stocks

are greatly under the control of those who gamble in them, and who seize every circumstance, alternately to depress and exalt them; and the fluctuations affect nobody but those who are buyers or sellers. Yet this objection was gravely resorted to every time that any movement was made which affected the bank; and arithmetical calculations were gravely gone into to show, upon each decline of the stock, how much money each stockholder had lost. On this occasion the loss of the United States was set down at half a million of dollars:—which was recovered four days afterwards upon the reading of the report of the treasury agent, favorable to the bank, and which enabled the dealers to put up the shares to 112 again. In the mean time nobody lost any thing but the gamblers; and that was nothing to the public, as the loss of one was the gain of the other: and the thing balanced itself. Holders for investment neither lost, nor gained. For the rest, Mr. Wayne, of Georgia, replied:

"It has been said that nothing was now before the House to make an inquiry into the condition of the bank desirable or necessary. He would refer to the President's message, and to the report of the Secretary of the Treasury, both suggesting an examination, to ascertain if the bank was, or would be in future, a safe depository for the public funds. Mr. W. did not say it was not, but an inquiry into the fact might be very proper notwithstanding; and the President and Secretary, in suggesting it, had imputed no suspicion of the insolvency of the bank. Eventual ability to discharge all of its obligations is not of itself enough to entitle the bank to the confidence of the government. Its management, and the spirit in which it is managed, in direct reference to the government, or to those administering it, may make investigation proper. What was the Executive's complaint against the bank? That it had interfered with the payment of the public debt, and would postpone the payment of five millions of it for a year after the time fixed upon for its redemption, by becoming actually or nominally the possessors of that amount of the three per centum stock, though the charter prohibited it from holding such stock, and from all advantages which might accrue from the purchase of it. True, the bank had disavowed the ownership. But of that sum which had been bought by Baring, Brothers, & Co., under the agreement with the agent of the bank, at ninety-one and a half, and the cost of which had been charged to the bank, who would derive the benefit of the difference between the cost of it and the par value, which the government will pay? Mr. W. knew this gain would be effected by what may be the rate of exchange between the United States and England, but still there would be gain, and who was to receive it? Baring, Brothers, & Co.? No. The bank was, by agreement, charged with the cost of it, in a separate account, on the books of Baring, Brothers, & Co., and it had agreed to pay interest upon the amount, until the stock was redeemed.

"The bank being prohibited to deal in such stock, it would be well to inquire, even under the present arrangements with Baring, Brothers, & Co., whether the charter, in this respect, was substantially complied with. Mr. W. would not now go into the question of the policy of the arrangement by the bank concerning the three per cents. It may eventuate in great public benefit, as regards the commerce of the country; but if it does, it will be no apology for the temerity of an interference with the fixed policy of the government, in regard to the payment of the national debt; a policy, which those who administer the bank knew had been fixed by all who, by law, can have any agency in its payment. Nor can any apology be found for it in the letter of the Secretary of the Treasury of the 19th of July last to Mr. Biddle; for, at Philadelphia, the day before, on the 18th, he employed an agent to go to England, and had given instructions to make an arrangement, by which the payment of the public debt was to be postponed until October, 1833."

Mr. Watmough, representative from the district in which the bank was situated, disclaimed any intention to thwart any course which the House was disposed to take; but said that the charges against the bank had painfully affected the feelings of honorable men connected with the corporation, and injured its character; and deprecated the appointment of a select committee; and proposed the Committee of Ways and Means—the same which had twice reported in favor of the bank:—and he had no objection that this committee should be clothed with all the powers proposed by Mr. Wayne to be conferred upon the select committee. In this state of the question the report of the treasury agent came in, and deserves to be remembered in contrast with the actual condition of the bank as afterwards discovered, and as a specimen of the imposing exhibit of its affairs which a moneyed corporation can make when actually insolvent. The report, founded on the statements furnished by the institution itself, presented a superb condition—near eighty millions of assets (to be precise, $79,593,870), to meet all demands against it, amounting to thirty-seven millions and a quarter—leaving forty-two millions and

a quarter for the stockholders; of which thirty-five millions would reimburse the stock, and seven and a quarter millions remain for dividend. Mr. Polk stated that this report was a mere compendium of the monthly bank returns, showing nothing which these returns did not show; and especially nothing of the eight millions of unavailable funds which had been ascertained to exist, and which had been accumulating for eighteen years. On the point of the non-payment of the three per cents, he said:

"The Secretary of the Treasury had given public notice that the whole amount of the three per cents would be paid off on the first of July. The bank was apprised of this arrangement, and on its application the treasury department consented to suspend the redemption of one third of this stock until the first of October, the bank paying the interest in the mean while. But, if the condition of the bank was so very prosperous, as has been represented, why did it make so great a sacrifice as to pay interest on that large amount for three months, for the sake of deferring the payment? The Secretary of the Treasury, on the 19th July, determined that two thirds of the stock should be paid off on the first of October; and, on the 18th of July what did the bank do? It dispatched an agent to London, without the knowledge of the treasury, and for what? In effect, to borrow 5,000,000 dollars, for that was the amount of the transaction. From this fact Mr. P. inferred that the bank was unable to go on without the public deposits. They then made a communication to the treasury, stating that the bank would hold up such certificates as it could control, to suit the convenience of the government; but was it on this account that they sent their agent to London? Did the president of the bank himself assign this reason? No; he gave a very different account of the matter; he said that the bank apprehended that the spread of the cholera might produce great distress in the country, and that the bank wished to hold itself in an attitude to meet the public exigencies, and that with this view an agent was sent to make an arrangement with the Barings for withholding three millions of the stock."

The motion of Mr. Watmough to refer the inquiry to the Committee of Ways and Means, was carried; and that committee soon reported: *first*, on the point of postponing the payment of a part of the three per cents, that the business being now closed by the actual payment of that stock, it no longer presented any important or practicable point of inquiry, and did not call for any action of Congress upon it; and, *secondly*, on the point of the safety of the public deposits, that there could be no doubt of the entire soundness of the whole bank capital, after meeting all demands upon it, either by its bill holders or the government; and that such was the opinion of the committee, who felt great confidence in the well-known character and intelligence of the directors, whose testimony supported the facts on which the committee's opinion rested. And they concluded with a resolve which they recommended to the adoption of the House, "That the government deposits may, in the opinion of the House, be safely continued in the Bank of the United States." Mr. Polk, one of the committee, dissented from the report, and argued thus against it:

"He hoped that gentlemen who believed the time of the House, at this period of the session, to be necessarily valuable, would not press the consideration of this resolution upon the House at this juncture. During the small remainder of the session, there were several measures of the highest public importance which remained to be acted on. For one, he was extremely anxious that the session should close by 12 o'clock to-night, in order that a sitting upon the Sabbath might be avoided. He would not proceed in expressing his views until he should understand from gentlemen whether they intended to press the House to a vote upon this resolution. [A remark was made by Mr. Ingersoll, which was not heard distinctly by the reporter.] Mr. P. proceeded. As it had been indicated that gentlemen intended to take a vote upon the resolution, he would ask whether it was possible for the members of the House to express their opinions on this subject with an adequate knowledge of the facts. The Committee of Ways and Means had spent nearly the whole session in the examination of one or two points connected with this subject. The range of investigation had been, of necessity, much less extensive than the deep importance of the subject required; but, before any opinion could be properly expressed, it was important that the facts developed by the committee should be understood. There had been no opportunity for this, and there was no necessity for the expression of a premature opinion unless it was considered essential to whitewash the bank. If the friends of the bank deemed it indispensably necessary, in order to sustain the bank, to call for an expression of opinion, where the House had enjoyed no opportunity of examining the testimony and proof upon which alone a correct opinion could be formed, he should be compelled, briefly, to present one or two facts to the House. It had been one of the objects of the Committee of Ways and Means to ascertain the circumstances relative to the postponement of the redemption of the three per cent. stock by the bank. With the mass

of other important duties devolving upon the committee, as full an investigation of the condition of the bank as was desirable could not be expected. The committee, therefore, had been obliged to limit their inquiries to this subject of the three per cents; the other subjects of investigation were only incidental. Upon this main subject of inquiry the whole committee, majority as well as minority, were of opinion that the bank had exceeded its legitimate authority, and had taken measures which were in direct violation of its charter. He would read a single sentence from the report of the majority, which conclusively established this position. In the transactions upon this subject, the majority of the committee expressly say, in their report, that 'the bank exceeded its legitimate authority, and that this proceeding had no sufficient warrant in the correspondence of the Secretary of the Treasury.' Could language be more explicit? It was then the unanimous opinion of the committee, upon this main topic of inquiry, that the bank had exceeded its legitimate authority, and that its proceedings relative to the three per cents had no sufficient warrant in the correspondence of the Secretary of the Treasury. The Bank of the United States, it must be remembered, had been made the place of deposit for the public revenues, for the purpose of meeting the expenditures of the government. With the public money in its vaults, it was bound to pay the demands of the government. Among these demands upon the public money in the bank, was that portion of the public debt of which the redemption had been ordered. Had the bank manifested a willingness to pay out the public money in its possession for this object? On examination of the evidence it would be found that, as early as March, 1832, the president of the bank, without the knowledge of the government directors, had instituted a correspondence with certain holders of the public debt, for the purpose of procuring a postponement of its redemption. There was, at that time, no cholera, which could be charged with giving occasion to the correspondence. When public notice had been given by the Secretary of the Treasury of the redemption of the debt, the president of the bank immediately came to Washington, and requested that the redemption might be postponed. And what was the reason then assigned by the president of the bank for this postponement? Why, that the measure would enable the bank to afford the merchants great facilities for the transaction of their business under an extraordinary pressure upon the money market. What was the evidence upon this point? The proof distinctly showed that there was no extraordinary pressure. The monthly statements of the bank established that there was, in fact, a very considerable curtailment of the facilities given to the merchants in the commercial cities.

"The minority of the Committee of Ways and Means had not disputed the ability of the bank to discharge its debts in its own convenient time; but had the bank promptly paid the public money deposited in its vaults when called for? As early as October, 1831, the bank had anticipated that during the course of 1832 it would not be allowed the undisturbed and permanent use of the public deposits. In the circular orders to the several branches which were then issued, the necessity was stated for collecting the means for refunding those deposits from the loans which were then outstanding. Efforts were made by the branches of the West to make collections for that object; but those efforts entirely failed. The debts due upon loans made by the Western branches had not been curtailed. It was found impossible to curtail them. As the list of discounts had gone down, the list of domestic bills of exchange had gone up. The application before alluded to was made in March to Mr. Ludlow, of New-York, who represented about 1,700,000 of the public debt to postpone its redemption. This expedient also failed. Then the president of the bank came to Washington for the purpose of procuring the postponement of the period of redemption, upon the ground that an extraordinary pressure existed, and the public interest would be promoted by enabling the bank to use the public money in affording facilities to the merchants of the commercial cities. And what next? In July, the president of the bank and the exchange committee, without the knowledge of the head of the treasury, or of the board of directors of the bank, instituted a secret mission to England, for the purpose of negotiating in effect a loan of five millions of dollars, for which the bank was to pay interest. The propriety or object of this mission was not laid before the board of directors, and no clue was afforded to the government. Mr. Cadwalader went to England upon this secret mission. On the 1st of October the bank was advised of the arrangement made by Mr. Cadwalader, by which it was agreed, in behalf of the bank, to purchase a part of the debt of the foreign holders, and to defer the redemption of a part. Now, it was well known to every one who had taken the trouble to read the charter of the bank, that it was expressly prohibited from purchasing public stock. On the 15th October it was discovered that Cadwalader had exceeded his instructions. This discovery by the bank took place immediately after the circular letter of Baring, Brothers, & Co., of London, announcing that the arrangement had been published in one of the New-York papers. This circular gave the first information to the government, or to any one in this country, as far as he was advised, excepting the exchange committee of the bank, of the object of Cadwalader's mission. In the limited time which could now be spared for this discussion, it was impossible to go through the particulars of this scheme. It would be seen, on examination of the transaction, that the bank had directly interfered with the redemption of the public debt, for the obvious reason that it

was unable to refund the public deposits. The cholera was not the ground of the correspondence with Ludlow. It was not the cholera which brought the president of the bank to Washington, to request the postponement of the redemption of the debt; nor was it the cholera which led to the resolution of the exchange committee of the bank to send Cadwalader to England. The true disorder was, the impossibility in which the bank found itself to concentrate its funds and diminish its loans. It had been stated in the report of the majority of the committee, that the certificates of the greater portion of the three per cents had been surrendered. It had been said that there was now less than a million of this debt outstanding. In point of fact, it would seem, from the correspondence, that between one and two millions of the debts of which the certificates had been surrendered, had been paid by the bank becoming debtor to the foreign holder instead of the government. The directors appear to suppose this has not been the case, but the correspondence shows that the certificates have been sent home under this arrangement. After this brief explanation of the conduct of the bank in relation to the public deposits, he would ask whether it was necessary to sustain the credit of the bank by adopting this resolution."

The vote on the resolution was taken, and resulted in a large majority for it—109 to 46. Those who voted in the negative were: John Anderson of Maine; William G. Angel of New-York; William S. Archer of Virginia; James Bates of Maine; Samuel Beardsley of New-York; John T. Bergen of New-York; Laughlin Bethune of North Carolina; John Blair of Tennessee; Joseph Bouck of New-York; John C. Brodhead of New-York; John Carr of Indiana; Clement C. Clay of Alabama; Henry W. Connor of North Carolina; Charles Dayan of New-York; Thomas Davenport of Virginia; William Fitzgerald of Tennessee; — Clayton of Georgia; Nathan Gaither of Kentucky; William F. Gordon of Virginia; Thomas H. Hall of North Carolina; Joseph W. Harper of New Hampshire; — Hawkins; Michael Hoffman of New-York; Henry Horn of Pennsylvania; Henry Hubbard of New Hampshire; Adam King of Pennsylvania; Joseph Lecompte of Kentucky; Chittenden Lyon of Kentucky; Joel K. Mann of Kentucky; Samuel W. Mardis of Alabama; John Y. Mason of Virginia; Jonathan McCarty of Indiana; Thomas R. Mitchell of South Carolina; Job Pierson of New-York; James K. Polk of Tennessee; Edward C. Reed of New-York; Nathan Soule of New-York; Jesse Speight of North Carolina; Jas. Standifer of Tennessee; Francis Thomas of Maryland; Wiley Thompson of Georgia; Daniel Wardwell of New-York; James M. Wayne of Georgia; John W. Weeks of New Hampshire; Campbell P. White of New-York: J. T. H. Worthington of Maryland. And thus the bank not only escaped without censure, but received high commendation; while its conduct in relation to the three per cents placed it unequivocally in the category of an unfaithful and prevaricating agent; and only left open the inquiry whether its conduct was the result of inability to pay the sum required, or a disposition to make something for itself, or to favor its debtors—the most innocent of these motives being negatived by the sinister concealment of the whole transaction from the government (after getting delay from it), its concealment from the public, its concealment even from its own board of directors—its entire secrecy from beginning to end—until accidentally discovered through a London letter published in New-York. These are the same three per cents, the redemption of which through an enlargement of the powers of the sinking fund commissioners I had endeavored to effect some years before, when they could have been bought at about sixty-six cents in the dollar, and when my attempt was defeated by the friends of the bank. They were now paid at the rate of one hundred cents to the dollar, losing all the time the interest on the deposits, in bank, and about four millions for the appreciation of the stock. The attempt to get this stock redeemed, or interest on the deposits, was one of my first financial movements after I came into the Senate; and the ease with which the bank defeated me, preventing both the extinction of the debt and the payment of interest on the deposits, convinced me how futile it was to attempt any legislation unfavorable to the bank in a case which concerned itself.

CHAPTER LXXVI.

ABOLITION OF IMPRISONMENT FOR DEBT.

The philanthropic Col. R. M. Johnson, of Kentucky, had labored for years at this humane consummation; and finally saw his labors successful. An act of Congress was passed abolishing all imprisonment for debt, under process

from the courts of the United States: the only extent to which an act of Congress could go, by force of its enactments; but it could go much further, and did, in the force of example and influence; and has led to the cessation of the practice of imprisoning the debtors, in all, or nearly all, of the States and Territories of the Union; and without the evil consequences which had been dreaded from the loss of this remedy over the person. It led to a great many oppressions while it existed, and was often relied upon in extending credit, or inducing improvident people to incur debt, where there was no means to pay it, or property to meet it, in the hands of the debtor himself; but reliance wholly placed upon the sympathies of third persons, to save a friend or relative from confinement in a prison. The dower of wives, and the purses of fathers, brothers, sisters, friends, were thus laid under contribution by heartless creditors; and scenes of cruel oppression were witnessed in every State. Insolvent laws and bankrupt laws were invented to cover the evil, and to separate the unfortunate from the fraudulent debtor; but they were slow and imperfect in operation, and did not reach the cases in which a cold and cruel calculation was made upon the sympathies of friends and relatives, or upon the chances of catching the debtor in some strange and unbefriended place. A broader remedy was wanted, and it was found in the total abolition of the practice, leaving in full force all the remedies against fraudulent evasions of debt. In one of his reports on the subject, Col. Johnson thus deduced the history of this custom, called "barbarous," but only to be found in civilized countries:

"In ancient Greece, the power of creditors over the persons of their debtors was absolute; and, as in all cases where despotic control is tolerated, their rapacity was boundless. They compelled the insolvent debtors to cultivate their lands like cattle, to perform the service of beasts of burden, and to transfer to them their sons and daughters, whom they exported as slaves to foreign countries.

"These acts of cruelty were tolerated in Athens, during her more barbarous state, and in perfect consonance with the character of a people who could elevate a Draco, and bow to his mandates, registered in blood. But the wisdom of Solon corrected the evil. Athens felt the benefit of the reform; and the pen of the historian has recorded the name of her lawgiver as the benefactor of man. In ancient Rome, the condition of the unfortunate poor was still more abject. The cruelty of the Twelve Tables against insolvent debtors should be held up as a beacon of warning to all modern nations. After judgment was obtained, thirty days of grace were allowed before a Roman was delivered into the power of his creditor. After this period, he was retained in a private prison, with twelve ounces of rice for his daily sustenance. He might be bound with a chain of fifteen pounds weight; and his misery was three times exposed in the market-place, to excite the compassion of his friends. At the expiration of sixty days, the debt was discharged by the loss of liberty or life. The insolvent debtor was either put to death or sold in foreign slavery beyond the Tiber. But, if several creditors were alike obstinate and unrelenting, they might legally dismember his body, and satiate their revenge by this horrid partition. Though the refinements of modern criticisms have endeavored to divest this ancient cruelty of its horrors, the faithful Gibbon, who is not remarkable for his partiality to the poorer class, preferring the liberal sense of antiquity, draws this dark picture of the effect of giving the creditor power over the person of the debtor. No sooner was the Roman empire subverted than the delusion of Roman perfection began to vanish, and then the absurdity and cruelty of this system began to be exploded—a system which convulsed Greece and Rome, and filled the world with misery, and, without one redeeming benefit, could no longer be endured—and, to the honor of humanity, for about one thousand years, during the middle ages, imprisonment for debt was generally abolished. They seemed to have understood what, in more modern times, we are less ready to comprehend, that power, in any degree, over the person of the debtor, is the same in principle, varying only in degree, whether it be to imprison, to enslave, to brand, to dismember, or to divide his body. But, as the lapse of time removed to a greater distance the cruelties which had been suffered, the cupidity of the affluent found means again to introduce the system; but by such slow gradations, that the unsuspecting poor were scarcely conscious of the change.

"The history of English jurisprudence furnishes the remarkable fact, that, for many centuries, personal liberty could not be violated for debt. Property alone could be taken to satisfy a pecuniary demand. It was not until the reign of Henry III., in the thirteenth century, that the principle of imprisonment for debt was recognized in the land of our ancestors, and that was in favor of the barons alone; the nobility against their bailiffs, who had received their rents and had appropriated them to their own use. Here was the shadow of a pretext. The great objection to the punishment was, that it was inflicted at the pleasure of the baron, without a trial: an evil incident to aristocracies, but obnoxious to republics. The courts, under the pretext of imputed crime, or constructive violence, on the part of the debtor, soon began to extend the principle, but without legislative sanction. In the eleventh

year of the reign of Edward I., the immediate successor of Henry, the right of imprisoning debtors was extended to merchants—Jewish merchants excepted, on account of their heterodoxy in religion—and was exercised with great severity. This extension was an act of policy on the part of the monarch. The ascendency obtained by the barons menaced the power of the throne; and, to counteract their influence, the merchants, a numerous and wealthy class, were selected by the monarch, and invested with the same authority over their debtors.

"But England was not yet prepared for the yoke. She could endure an hereditary nobility; she could tolerate a monarchy; but she could not yet resign her unfortunate sons, indiscriminately, to the prison. The barons and the merchants had gained the power over their victims; yet more than sixty years elapsed before Parliament dared to venture another act recognizing the principle. During this period, imprisonment for debt had, in some degree, lost its novelty. The incarceration of the debtor began to make the impression that fraud, and not misfortune, had brought on his catastrophe, and that he was, therefore, unworthy of the protection of the law, and too degraded for the society of the world. Parliament then ventured, in the reign of Edward III., in the fourteenth century, to extend the principle to two other cases—debt and detinue. This measure opened the door for the impositions which were gradually introduced by judicial usurpation, and have resulted in the most cruel oppression. Parliament, for one hundred and fifty years afterwards, did not venture to outrage the sentiments of an injured and indignant people, by extending the power to ordinary creditors. But they had laid the foundation, and an irresponsible judiciary reared the superstructure. From the twenty-fourth year of the reign of Edward III., to the nineteenth of Henry VIII., the subject slumbered in Parliament. In the mean time, all the ingenuity of the courts was employed, by the introduction of artificial forms and legal fictions, to extend the power of imprisonment for debt in cases not provided for by statute. The jurisdiction of the court called the King's Bench, extended to all crimes or disturbances against the peace. Under this court of criminal jurisdiction, the debtor was arrested by what was called the writ of Middlesex, upon a supposed trespass or outrage against the peace and dignity of the crown. Thus, by a fictitious construction, the person who owed his neighbor was supposed to be, what every one knew him not to be, a violator of the peace, and an offender against the dignity of the crown; and while his body was held in custody for this crime, he was proceeded against in a civil action, for which he was not liable to arrest under statute. The jurisdiction of the court of common pleas extended to civil actions arising between individuals upon private transactions. To sustain its importance upon a scale equal with that of its rival, this court also adopted its fictions, and extended its power upon artificial construction, quite as far beyond its statutory prerogative; and upon the fictitious plea of trespass, constituting a legal supposition of outrage against the peace of the kingdom, authorized the writ of capias, and subsequent imprisonment, in cases where a summons only was warranted by law. The court of exchequer was designed to protect the king's revenue, and had no legal jurisdiction, except in cases of debtors to the public. The ingenuity of this court found means to extend its jurisdiction to all cases of debt between individuals, upon the fictitious plea that the plaintiff, who instituted the suit, was a debtor to the king, and rendered the less able to discharge the debt by the default of the defendant. Upon this artificial pretext, that the defendant was debtor to the king's debtor, the court of exchequer, to secure the king's revenue, usurped the power of arraigning and imprisoning debtors of every description. Thus, these rival courts, each ambitious to sustain its relative importance, and extend its jurisdiction, introduced, as legal facts, the most palpable fictions, and sustained the most absurd solecisms as legal syllogisms.

"Where the person of the debtor was, by statute, held sacred, the courts devised the means of construing the demand of a debt into the supposition of a crime, for which he was subject to arrest on mesne process; and the evidence of debt, into the conviction of a crime against the peace of the kingdom, for which he was deprived of his liberty at the pleasure of the offended party. These practices of the courts obtained by regular gradation. Each act of usurpation was a precedent for similar outrages, until the system became general, and at length received the sanction of Parliament. The spirit of avarice finally gained a complete triumph over personal liberty. The sacred claims of misfortune were disregarded, and, to the iron grasp of poverty, were added the degradation of infamy, and the misery of the dungeon.

"While imprisonment for debt is sanctioned, the threats of the creditor are a source of perpetual distress to the dependent, friendless debtor, holding his liberty by sufferance alone. Temptations to oppression are constantly in view. The means of injustice are always at hand; and even helpless females are not exempted from the barbarous practice. In a land of liberty, enjoying, in all other respects, the freest and happiest government with which the world was ever blessed, it is matter of astonishment that this cruel custom, so anomalous to all our institutions, inflicting so much misery upon society, should have been so long endured."

The act was passed soon after this masterly report was made, followed by similar acts in most of the States; and has been attended every where with the beneficial effect resulting

from the suppression of any false and vicious principle in legislation. It is a false and vicious principle in the system of credit to admit a calculation for the chance of payment, founded on the sympathy and alarms of third parties, or on the degradation and incarceration of the debtor himself. Such a principle is morally wrong, and practically unjust; and there is no excuse for it in the plea of fraud. The idea of fraud does not enter into the contract at its original formation; and if occurring afterwards, and the debtor undertakes to defraud his creditor, there is a code of law made for the case; and every case should rest upon its own circumstances. As an element of credit, imprisonment for debt is condemned by morality, by humanity, and by the science of political economy; and its abolition has worked well in reducing the elements of credit to their legitimate derivation in the personal character, visible means, and present securities of the contracting debtor. And, if in that way, it has diminished in any degree the wide circle of credit, that is an additional advantage gained to the good order of society and to the solidity of the social edifice. And thus, as in so many other instances, American legislation has ameliorated the law derived from our English ancestors, and given an example which British legislation may some day follow.—In addition to the honor of seeing this humane act passed during his administration, General Jackson had the further and higher honor of having twice recommended it to the favorable consideration of Congress.

CHAPTER LXXVII.

SALE OF UNITED STATES STOCK IN THE NATIONAL BANK.

The President in his annual message had recommended the sale of this stock, and all other stock held by the United States in corporate companies, with the view to disconnecting the government from such corporations, and from all pursuits properly belonging to individuals. And he made the recommendation upon the political principle which condemns the partnership of the government with a corporation; and upon the economical principle which condemns the national pursuit of any branch of industry and leaves the profit, or loss of all such pursuits to individual enterprise; and upon the belief, in this instance, that the partnership was unsafe—that the firm would fail—and the stockholders lose their investment. In conformity to this recommendation, a bill was brought into the House of Representatives to sell the public stock held in the Bank of the United States, being seven millions of dollars in amount, and consisting of a national stock bearing five per centum interest. The bill was met at the threshold by the parliamentary motion which implies the unworthiness of the subject to be considered; namely, the motion to reject the bill at the first reading. That reading is never for consideration, but for information only; and, although debatable, carries the implication of unfitness for debate, and of some flagrant enormity which requires rejection, without the honor of the usual forms of legislation. That motion was made by a friend of the bank, and seconded by the member (Mr. Watmough) supposed to be familiar with the wishes of the bank directory. The speakers on each side gave vent to expressions which showed that they felt the indignity that was offered to the bill, one side in promoting—the other in opposing the motion. Mr. Wickliffe, the mover, said: "He was impelled, by a sense of duty to his constituents and to his country, to do in this case, what he had never done before—to move the rejection of a bill at its first reading. There are cases in which courtesy should yield to the demands of justice and public duty; and this, in my humble opinion, is one of them. It is a bill fraught with ruin to all private interests, except the interest of the stockjobbers of Wall-street." Mr. Watmough expressed his indignation and amazement at the appearance of such a bill, and even fell upon the committee which reported it with so much personality as drew a call to order from the Speaker of the House. "He expressed his sincere regret at the neccessity which compelled him to intrude upon the House, and to express his opinion on the bill, and his indignation against this persecution of a national institution. He was at a loss to say which feeling predominated in his bosom—amazement, at the want of financial skill in the supporters of the bill—or detestation of the unrelenting spirit of the administration persecution on that floor of an in-

stitution admitted by the wisest and the best men of the times to be absolutely essential to the existence and safety of this Union, and almost to that of the constitution itself which formed its basis. He said, he was amazed that such a bill, at such a crisis, could emanate from any committee of this House; but his amazement was diminished when he recalled to mind the source from which it came. It came from the Committee of Ways and Means, and was under the parental care of the gentleman from Tennessee. Need he say more?"

Now, the member thus referred to, and who, after being pointed out as the guardian of the bill required nothing more to be said, was Mr. Polk, afterwards President of the United States. But parliamentary law is no respecter of persons, and would consider the indecorum and outrage of the allusion equally reprehensible in the case of the youngest and least considerable member; and the language is noted here to show the indignities to which members were subjected in the House for presuming to take any step concerning the bank which militated against that corporation. The sale of the government stock was no injury to the capital of the bank: it was no extinction of seven millions of capital but a mere transfer of that amount to private stockholders—such transfer as took place daily among the private stockholders. The only injury could be to the market price of the stock in the possible decline involved in the withdrawal of a large stockholder; but that was a damage, in the eye of the law and of morality, without injury; that is, without injustice—the stockholder having a right to do so without the assignment of reasons to be judged of by the corporation; and consequently a right to sell out and withdraw when he judged his money to be unsafe, or unprofitably placed, and susceptible of a better investment.

Mr. Polk remarked upon the unusual but not unexpected opposition to the bill; and said if the House was now forced to a decision, it would be done without opportunity for deliberation. He vindicated the bill from any necessary connection with the bank—with its eulogy or censure. This eulogy or censure had no necessary connection with a proposition to sell the government stock. It was a plain business proceeding. The bill authorized the Secretary of the Treasury to sell the stock upon such terms as he should deem best for the government. It was an isolated proposition. It proposed to disenthral the government from a partnership with this incorporated company. It proposed to get rid of the interest which the government had in this moneyed monopoly; and to do so by a sale of the government stocks, and on terms not below the market price. He was not disposed to depreciate the value of the article which he wished to sell. He was willing to rest upon the right to sell. The friends of the bank themselves raised the question of solvency, it would seem, that they might have an opportunity, to eulogize the institution under the forms of a defence. This was not the time for such a discussion—for an inquiry into the conduct and condition of the bank.

The argument and the right were with the supporters of the bill; but they signified nothing against the firm majority, which not only stood by the corporation in its trials, but supported it in its wishes. The bill was immediately rejected, and by a summary process which inflicted a new indignity. It was voted down under the operation of the "previous question," which, cutting off all debate, and all amendments, consigns a measure to instant and silent decision—like the "*mort sans phrase*" (death without talk) of the Abbé Siéyes, at the condemnation of Louis the Sixteenth. But the vote was not very triumphant—one of the leanest majorities, in fact, which the bank had received: one hundred and two to ninety-one.

The negative votes were:

"Messrs. Adair, Alexander, R. Allen, Anderson, Angel. Archer, Barnwell, James Bates, Beardsley, Bell, Bergen, Bethune, James Blair, John Blair, Boon, Bouck, Bouldin, John Brodhead, John C. Brodhead, Cambreleng, Chandler, Chinn, Claiborne, Clay, Clayton, Coke, Connor, Davenport, Dayan, Doubleday, Draper, Felder, Ford, Foster, Gaither, Gilmore, Gordon, Griffin, Thomas H. Hall, William Hall, Harper, Hawkins, Hoffman, Holland, Horn, Howard, Hubbard, Isacks, Jarvis, Jewett, Richard M. Johnson, Cave Johnson, Kavanagh, Kennon, Adam King, John King, Lamar, Lansing, Leavitt, Lecompte, Lewis, Lyon, Mann, Mardis, Mason, McCarty, Wm. McCoy, McIntire, McKay, Mitchell, Newnan, Nuckolls, Patton, Pierson, Plummer, Polk, Edward C. Reed, Roane, Soule, Speight, Standifer, John Thompson, Verplanck, Ward, Wardwell, Wayne, Weeks, Campbell, P. White, Worthington.—91."

Such was the result of this attempt, on the part of the government, to exercise the most or-

dinary right of a stockholder to sell its shares: opposed, insulted, defeated; and by the power of the bank in Congress, of whose members subsequent investigations showed above fifty to be borrowers from the institution; and many to be on the list of its retained attorneys. But this was not the first time the government had been so treated. The same thing had happened once before, and about in the same way; but without the same excuse of persecution and enmity to the corporation; for, it was before the time of General Jackson's Presidency; to wit, in the year 1827, and under the Presidency of Mr. Quincy Adams. Mr. Philip P. Barbour, representative from Virginia, moved an inquiry, at that time, into the expediency of selling the United States stock in the bank: the consideration of the resolution was delayed a week, the time necessary for a communication with Philadelphia. At the end of the week, the resolution was taken up, and summarily rejected. Mr. Barbour had placed his proposition wholly upon the ground of a public advantage in selling its stock, unconnected with any reason disparaging to the bank, and in a way to avoid, as he believed, any opposition. He said:

"The House were aware that the government holds, at this time, stock of the Bank of the United States, to the amount of seven millions of dollars, which stock was at present worth in market about twenty-three and one half per cent. advance above its par value. If the whole of this stock should now be sold by the government, it would net a profit of one million and six hundred thousand dollars above the nominal amount of the stock. Such being the case, he thought it deserved the serious consideration of the House, whether it would not be a prudent and proper measure now to sell out that stock. It had been said, Mr. B. observed, by one of the best writers on political economy, with whom he was acquainted, that the pecuniary affairs of nations bore a close analogy to those of private households: in both, their prosperity mainly depended on a vigilant and effective management of their resources. There is, said Mr. B., an amount of between seventeen and eighteen millions of the stock of the United States now redeemable, and an amount of nine millions more, which will be redeemable next year. If the interest paid by the United States on this debt is compared with the dividend it receives on its stock in the Bank of the United States, it will be found that a small advantage would be gained by the sale of the latter, in this respect; since the dividends on bank stock are received semi-annually, while the interest of the United States' securities is paid quarterly; this, however, he waived as a matter of comparatively small moment. It must be obvious, he said, that the addition of one million six hundred thousand dollars to the available funds of the United States will produce the extinguishment of an equivalent amount of the public debt, and consequently relieve the interest payable thereon, by which a saving would accrue of about one hundred thousand dollars per annum."

This was what Mr. Barbour said, at the time of offering the resolution. When it came up for consideration, a week after, he found his motion not only opposed, but his motives impeached, and the most sinister designs imputed to himself—to him! a Virginian country gentleman, honest and modest; ignorant of all indirection; upright and open; a stranger to all guile; and with the simplicity and integrity of a child. He deeply felt this impeachment of motives, certainly the first time in his life that an indecent imputation had ever fallen upon him; and he feelingly deprecated the intensity of the outrage. He said:

"We shall have fallen on evil times, indeed, if a member of this House might not, in the integrity of his heart, rise in his place, and offer for consideration a measure which he believed to be for the public weal, without having all that he said and did imputed to some hidden motive, and referred to some secret purpose which was never presented to the public eye."

His proposition was put to the vote, and received eight votes besides his own. They were: Messrs. Mark Alexander, John Floyd, John Roane, and himself, from Virginia; Thomas H. Hall, and Daniel Turner, of North Carolina; Tomlinson Foot of Connecticut; Joseph Lecompte, and Henry Daniel, of Kentucky. And this was the result of that first attempt to sell the United States stock in a bank chartered by itself and bearing its name. And now, why resuscitate these buried recollections? I answer: for the benefit of posterity! that they may have the benefit of our experience without the humiliation of having undergone it, and know what kind of a master seeks to rule over them if another national bank shall ever seek incorporation at their hands.

CHAPTER LXXVIII.

NULLIFICATION ORDINANCE IN SOUTH CAROLINA.

It has been seen that the whole question of the American system, and especially its prominent feature of a high protective tariff, was put in issue in the presidential canvass of 1832; and that the long session of Congress of that year was occupied by the friends of this system in bringing forward to the best advantage all its points, and staking its fate upon the issue of the election. That issue was against the system; and the Congress elections taking place contemporaneously with the presidential were of the same character. The fate of the American system was sealed. Its domination in federal legislation was to cease. This was acknowledged on all hands; and it was naturally expected that all the States, dissatisfied with that system, would be satisfied with the view of its speedy and regular extinction, under the legislation of the approaching session of Congress; and that expectation was only disappointed in a single State—that of South Carolina. She had held aloof from the presidential election—throwing away her vote upon citizens who were not candidates—and doing nothing to aid the election of General Jackson, with whose success her interests and wishes were apparently identified. Instead of quieting her apprehensions, and moderating her passion for violent remedies, the success of the election seemed to inflame them; and the 24th of November, just a fortnight after the election which decided the fate of the tariff, she issued her ordinance of nullification against it, taking into her own hands the sudden and violent redress which she prescribed for herself. That ordinance makes an era in the history of our Union, which requires to be studied in order to understand the events of the times, and the history of subsequent events. It was in these words:

"ORDINANCE.

"*An ordinance to nullify certain acts of the Congress of the United States, purporting to be laws laying duties and imposts on the importation of foreign commodities.*

"Whereas the Congress of the United States, by various acts, purporting to be acts laying duties and imposts on foreign imports, but in reality intended for the protection of domestic manufactures, and the giving of bounties to classes and individuals engaged in particular employments, at the expense and to the injury and oppression of other classes and individuals, and by wholly exempting from taxation certain foreign commodities, such as are not produced or manufactured in the United States, to afford a pretext for imposing higher and excessive duties on articles similar to those intended to be protected, hath exceeded its just powers under the constitution, which confers on it no authority to afford such protection, and hath violated the true meaning and intent of the constitution, which provides for equality in imposing the burdens of taxation upon the several States and portions of the confederacy: And whereas the said Congress, exceeding its just power to impose taxes and collect revenue for the purpose of effecting and accomplishing the specific objects and purposes which the constitution of the United States authorizes it to effect and accomplish, hath raised and collected unnecessary revenue for objects unauthorized by the constitution.

"We, therefore, the people of the State of South Carolina, in convention assembled, do declare and ordain, and it is hereby declared and ordained, that the several acts and parts of acts of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, and now having actual operation and effect within the United States, and, more especially, an act entitled 'An act in alteration of the several acts imposing duties on imports,' approved on the nineteenth day of May, one thousand eight hundred and twenty-eight, and also an act entitled 'An act to alter and amend the several acts imposing duties on imports,' approved on the fourteenth day of July, one thousand eight hundred and thirty-two, are unauthorized by the constitution of the United States, and violate the true meaning and intent thereof, and are null, void, and no law, nor binding upon this State, its officers or citizens; and all promises, contracts, and obligations, made or entered into, or to be made or entered into, with purpose to secure the duties imposed by the said acts, and all judicial proceedings which shall be hereafter had in affirmance thereof, are and shall be held utterly null and void.

"And it is further ordained, that it shall not be lawful for any of the constituted authorities, whether of this State or of the United States, to enforce the payment of duties imposed by the said acts within the limits of this State; but it shall be the duty of the legislature to adopt such measures and pass such acts as may be necessary to give full effect to this ordinance, and to prevent the enforcement and arrest the operation of the said acts and parts of acts of the Congress of the United States within the limits of this State, from and after the 1st day of Feb-

ruary next, and the duty of all other constituted authorities, and of all persons residing or being within the limits of this State, and they are hereby required and enjoined to obey and give effect to this ordinance, and such acts and measures of the legislature as may be passed or adopted in obedience thereto.

"And it is further ordained, that in no case of law or equity, decided in the courts of this State, wherein shall be drawn in question the authority of this ordinance, or the validity of such act or acts of the legislature as may be passed for the purpose of giving effect thereto, or the validity of the aforesaid acts of Congress, imposing duties, shall any appeal be taken or allowed to the Supreme Court of the United States, nor shall any copy of the record be permitted or allowed for that purpose; and if any such appeal shall be attempted to be taken, the courts of this State shall proceed to execute and enforce their judgments, according to the laws and usages of the State, without reference to such attempted appeal, and the person or persons attempting to take such appeal may be dealt with as for a contempt of the court.

"And it is further ordained, that all persons now holding any office of honor, profit, or trust, civil or military, under this State (members of the legislature excepted), shall, within such time, and in such manner as the legislature shall prescribe, take an oath well and truly to obey, execute, and enforce this ordinance, and such act or acts of the legislature as may be passed in pursuance thereof, according to the true intent and meaning of the same; and on the neglect or omission of any such person or persons so to do, his or their office or offices shall be forthwith vacated, and shall be filled up as if such person or persons were dead or had resigned; and no person hereafter elected to any office of honor, profit, or trust, civil or military (members of the legislature excepted), shall, until the legislature shall otherwise provide and direct, enter on the execution of his office, or be in any respect competent to discharge the duties thereof, until he shall, in like manner, have taken a similar oath; and no juror shall be empannelled in any of the courts of this State, in any cause in which shall be in question this ordinance, or any act of the legislature passed in pursuance thereof, unless he shall first, in addition to the usual oath, have taken an oath that he will well and truly obey, execute, and enforce this ordinance, and such act or acts of the legislature as may be passed to carry the same into operation and effect, according to the true intent and meaning thereof.

"And we, the people of South Carolina, to the end that it may be fully understood by the government of the United States, and the people of the co-States, that we are determined to maintain this our ordinance and declaration, at every hazard, do further declare that we will not submit to the application of force, on the part of the federal government, to reduce this State to obedience; but that we will consider the passage, by Congress, of any act authorizing the employment of a military or naval force against the State of South Carolina, her constitutional authorities or citizens; or any act abolishing or closing the ports of this State, or any of them, or otherwise obstructing the free ingress and egress of vessels to and from the said ports, or any other act on the part of the federal government, to coerce the State, shut up her ports, destroy or harass her commerce, or to enforce the acts hereby declared to be null and void, otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union; and that the people of this State will thenceforth hold themselves absolved from all further obligation to maintain or preserve their political connection with the people of the other States, and will forthwith proceed to organize a separate government, and do all other acts and things which sovereign and independent States may of right do.

"Done in convention at Columbia, the twenty-fourth day of November, in the year of our Lord one thousand eight hundred and thirty-two, and in the fifty-seventh year of the declaration of the independence of the United States of America."

This ordinance placed the State in the attitude of open, forcible resistance to the laws of the United States, to take effect on the first day of February next ensuing—a period within which it was hardly possible for the existing Congress, even if so disposed, to ameliorate obnoxious laws; and a period a month earlier than the commencement of the legal existence of the new Congress, on which all reliance was placed. And, in the mean time, if any attempt should be made in any way to enforce the obnoxious laws except through her own tribunals sworn against them, the fact of such attempt was to terminate the continuance of South Carolina in the Union—to absolve her from all connection with the federal government—and to establish her as a separate government, not only unconnected with the United States, but unconnected with any one State. This ordinance, signed by more than a hundred citizens of the greatest respectability, was officially communicated to the President of the United States; and a case presented to him to test his patriotism, his courage, and his fidelity to his inauguration oath—an oath taken in the presence of God and man, of Heaven and earth, "*to take care that the laws of the Union were faithfully executed.*" That President was Jackson; and

the event soon proved, what in fact no one doubted, that he was not false to his duty, his country, and his oath. Without calling on Congress for extraordinary powers, he merely adverted in his annual message to the attitude of the State, and proceeded to meet the exigency by the exercise of the powers he already possessed.

CHAPTER LXXIX.

PROCLAMATION AGAINST NULLIFICATION.

THE ordinance of nullification reached President Jackson in the first days of December, and on the tenth of that month the proclamation was issued, of which the following are the essential and leading parts:

"Whereas a convention assembled in the State of South Carolina have passed an ordinance, by which they declare 'that the several acts and parts of acts of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, and now having actual operation and effect within the United States, and more especially' two acts for the same purposes, passed on the 29th of May, 1828, and on the 14th of July, 1832, 'are unauthorized by the constitution of the United States, and violate the true meaning and intent thereof, and are null and void, and no law,' nor binding on the citizens of that State, or its officers: and by the said ordinance, it is further declared to be unlawful for any of the constituted authorities of the State or of the United States to enforce the payment of the duties imposed by the said acts within the same State, and that it is the duty of the legislature to pass such laws as may be necessary to give full effect to the said ordinance:

"And whereas, by the said ordinance, it is further ordained, that in no case of law or equity decided in the courts of said State, wherein shall be drawn in question the validity of the said ordinance, or of the acts of the legislature that may be passed to give it effect, or of the said laws of the United States, no appeal shall be allowed to the Supreme Court of the United States, nor shall any copy of the record be permitted or allowed for that purpose, and that any person attempting to take such appeal shall be punished as for a contempt of court:

"And, finally, the said ordinance declares that the people of South Carolina will maintain the said ordinance at every hazard; and that they will consider the passage of any act, by Congress, abolishing or closing the ports of the said State, or otherwise obstructing the free ingress or egress of vessels to and from the said ports, or any other act of the federal government to coerce the State, shut up her ports, destroy or harass her commerce, or to enforce the said acts otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union; and that the people of the said State will thenceforth hold themselves absolved from all further obligation to maintain or preserve their political connection with the people of the other States, and will forthwith proceed to organize a separate government, and do all other acts and things which sovereign and independent States may of right do:

"And whereas the said ordinance prescribes to the people of South Carolina a course of conduct in direct violation of their duty as citizens of the United States, contrary to the laws of their country, subversive of its constitution, and having for its object the destruction of the Union—that Union which, coeval with our political existence, led our fathers, without any other ties to unite them than those of patriotism and a common cause, through a sanguinary struggle to a glorious independence—that sacred Union, hitherto inviolate, which, perfected by our happy constitution, has brought us, by the favor of Heaven, to a state of prosperity at home, and high consideration abroad, rarely, if ever, equalled in the history of nations: To preserve this bond of our political existence from destruction, to maintain inviolate this state of national honor and prosperity, and to justify the confidence my fellow-citizens have reposed in me, I, Andrew Jackson, President of the United States, have thought proper to issue this my proclamation, stating my views of the constitution and laws applicable to the measures adopted by the convention of South Carolina, and to the reasons they have put forth to sustain them, declaring the course which duty will require me to pursue, and, appealing to the understanding and patriotism of the people, warn them of the consequences that must inevitably result from an observance of the dictates of the convention.

"Strict duty would require of me nothing more than the exercise of those powers with which I am now, or may hereafter be, invested, for preserving the peace of the Union, and for the execution of the laws. But the imposing aspect which opposition has assumed in this case, by clothing itself with State authority, and the deep interest which the people of the United States must all feel in preventing a resort to stronger measures, while there is a hope that any thing will be yielded to reasoning and remonstrance, perhaps demanded, and will certainly justify, a full exposition to South Carolina and the nation of the views I entertain of this important question, as well as a distinct enunciation of the course which my sense of duty will require me to pursue.

"The ordinance is founded, not on the indefeasible right of resisting acts which are plainly

unconstitutional and too oppressive to be endured, but on the strange position that any one State may not only declare an act of Congress void, but prohibit its execution; that they may do this consistently with the constitution; that the true construction of that instrument permits a State to retain its place in the Union, and yet be bound by no other of its laws than those it may choose to consider as constitutional. It is true, they add, that to justify this abrogation of a law, it must be palpably contrary to the constitution; but it is evident, that to give the right of resisting laws of that description, coupled with the uncontrolled right to decide what laws deserve that character, is to give the power of resisting all laws. For as, by the theory, there is no appeal, the reasons alleged by the State, good or bad, must prevail. If it should be said that public opinion is a sufficient check against the abuse of this power, it may be asked why it is not deemed a sufficient guard against the passage of an unconstitutional act by Congress. There is, however, a restraint in this last case, which makes the assumed power of a State more indefensible, and which does not exist in the other. There are two appeals from an unconstitutional act passed by Congress—one to the judiciary, the other to the people and the States. There is no appeal from the State decision in theory, and the practical illustration shows that the courts are closed against an application to review it, both judges and jurors being sworn to decide in its favor. But reasoning on this subject is superfluous, when our social compact, in express terms, declares that the laws of the United States, its constitution, and treaties made under it, are the supreme law of the land; and, for greater caution, adds 'that the judges in every State shall be bound thereby, any thing in the constitution or laws of any State to the contrary notwithstanding.' And it may be asserted without fear of refutation, that no federative government could exist without a similar provision. Look for a moment to the consequence. If South Carolina considers the revenue laws unconstitutional, and has a right to prevent their execution in the port of Charleston, there would be a clear constitutional objection to their collection in every other port, and no revenue could be collected any where; for all imposts must be equal. It is no answer to repeat, that an unconstitutional law is no law, so long as the question of its legality is to be decided by the State itself; for every law operating injuriously upon any local interest will be perhaps thought, and certainly represented, as unconstitutional, and, as has been shown, there is no appeal.

"If this doctrine had been established at an earlier day, the Union would have been dissolved in its infancy. The excise law in Pennsylvania, the embargo and non-intercourse law in the Eastern States, the carriage tax in Virginia, were all deemed unconstitutional, and were more unequal in their operation than any of the laws now complained of; but fortunately none of those States discovered that they had the right now claimed by South Carolina. The war, into which we were forced to support the dignity of the nation and the rights of our citizens, might have ended in defeat and disgrace, instead of victory and honor, if the States who supposed it a ruinous and unconstitutional measure, had thought they possessed the right of nullifying the act by which it was declared, and denying supplies for its prosecution. Hardly and unequally as those measures bore upon several members of the Union, to the legislatures of none did this efficient and peaceable remedy, as it is called, suggest itself. The discovery of this important feature in our constitution was reserved to the present day. To the statesmen of South Carolina belongs the invention, and upon the citizens of that State will unfortunately fall the evils of reducing it to practice.

"If the doctrine of a State veto upon the laws of the Union carries with it internal evidence of its impracticable absurdity, our constitutional history will also afford abundant proof that it would have been repudiated with indignation had it been proposed to form a feature in our government.

"In our colonial state, although dependent on another power, we very early considered ourselves as connected by common interest with each other. Leagues were formed for common defence, and, before the declaration of independence, we were known in our aggregate character as the United Colonies of America. That decisive and important step was taken jointly We declared ourselves a nation by a joint, no by several acts, and when the terms of our confederation were reduced to form, it was in that of a solemn league of several States, by which they agreed that they would collectively form one nation for the purpose of conducting some certain domestic concerns and all foreign relations. In the instrument forming that Union is found an article which declares that 'every State shall abide by the determinations of Congress on all questions which, by that confederation, should be submitted to them.'

"Under the confederation, then, no State could legally annul a decision of the Congress, or refuse to submit to its execution; but no provision was made to enforce these decisions. Congress made requisitions, but they were not complied with. The government could not operate on individuals. They had no judiciary, no means of collecting revenue.

"But the defects of the confederation need not be detailed. Under its operation we could scarcely be called a nation. We had neither prosperity at home, nor consideration abroad. This state of things could not be endured, and our present happy constitution was formed, but formed in vain, if this fatal doctrine prevail. It was formed for important objects that are announced in the preamble made in the name and by the authority of the people of the United States, whose delegates framed, and whose con-

ventions approved it. The most important among these objects, that which is placed first in rank, on which all the others rest, is 'to form a more perfect Union.' Now, is it possible that even if there were no express provision giving supremacy to the constitution and laws of the United States over those of the States—can it be conceived that an instrument made for the purpose of 'forming a more perfect Union' than that of the confederation, could be so constructed by the assembled wisdom of our country, as to substitute for that confederation a form of government dependent for its existence on the local interest, the party spirit of a State, or of a prevailing faction in a State? Every man of plain, unsophisticated understanding, who hears the question, will give such an answer as will preserve the Union. Metaphysical subtlety, in pursuit of an impracticable theory, could alone have devised one that is calculated to destroy it.

"The constitution declares that the judicial powers of the United States extend to cases arising under the laws of the United States, and that such laws, the constitution and treaties shall be paramount to the State constitutions and laws. The judiciary act prescribes the mode by which the case may be brought before a court of the United States: by appeal, when a State tribunal shall decide against this provision of the constitution. The ordinance declares there shall be no appeal; makes the State law paramount to the constitution and laws of the United States; forces judges and jurors to swear that they will disregard their provisions; and even makes it penal in a suitor to attempt relief by appeal. It further declares that it shall not be lawful for the authorities of the United States, or of that State, to enforce the payment of duties imposed by the revenue laws within its limits.

"Here is a law of the United States, not even pretended to be unconstitutional, repealed by the authority of a small majority of the voters of a single State. Here is a provision of the constitution which is solemnly abrogated by the same authority.

"On such expositions and reasonings, the ordinance grounds not only an assertion of the right to annul the laws of which it complains, but to enforce it by a threat of seceding from the Union, if any attempt is made to execute them.

"This right to secede is deduced from the nature of the constitution, which, they say, is a compact between sovereign States, who have preserved their whole sovereignty, and, therefore, are subject to no superior; that, because they made the compact, they can break it when, in their opinion, it has been departed from, by the other States. Fallacious as this course of reasoning is, it enlists State pride, and finds advocates in the honest prejudices of those who have not studied the nature of our government sufficiently to see the radical error on which it rests.

"The people of the United States formed the constitution, acting through the State legislatures in making the compact, to meet and discuss its provisions, and acting in separate conventions when they ratified those provisions; but, the terms used in its construction show it to be a government in which the people of all the States collectively are represented. We are one people in the choice of the President and Vice-President. Here the States have no other agency than to direct the mode in which the votes shall be given. Candidates having the majority of all the votes are chosen. The electors of a majority of States may have given their votes for one candidate, and yet another may be chosen. The people, then, and not the States, are represented in the executive branch.

"In the House of Representatives, there is this difference: that the people of one State do not, as in the case of President and Vice-President, all vote for the same officers. The people of all the States do not vote for all the members, each State electing only its own representatives. But this creates no material distinction. When chosen, they are all representatives of the United States, not representatives of the particular State from which they come. They are paid by the United States, not by the State, nor are they accountable to it for any act done in the performance of their legislative functions; and however they may in practice, as it is their duty to do, consult and prefer the interests of their particular constituents, when they come in conflict with any other partial or local interest, yet it is their first and highest duty, as representatives of the United States, to promote the general good.

"The constitution of the United States, then, forms a government, not a league; and whether it be formed by compact between the States, or in any other manner, its character is the same. It is a government in which all the people are represented, which operates directly on the people individually, not upon the States—they retained all the power they did not grant. But each State, having expressly parted with so many powers as to constitute, jointly with the other States, a single nation, cannot, from that period, possess any right to secede, because such secession does not break a league, but destroys the unity of a nation; and any injury to that unity is not only a breach which would result from the contravention of a compact, but it is an offence against the whole Union. To say that any State may at pleasure secede from the Union, is to say that the United States are not a nation; because it would be a solecism to contend that any part of a nation might dissolve its connection with the other parts, to their injury or ruin, without committing any offence. Secession, like any other revolutionary act, may be morally justified by the extremity of oppression; but, to call it a constitutional right, is confounding the meaning of terms; and can only be done through gross error, or to deceive those who are willing to assert a right, but would pause before they made a revolution, or incur the penalties consequent on a failure.

"Fellow-citizens of my native State, let me not only admonish you, as the First Magistrate of our common country, not to incur the penalty of its laws, but use the influence that a father would over his children whom he saw rushing to certain ruin. In that paternal language, with that paternal feeling, let me tell you, my countrymen, that you are deluded by men who are either deceived themselves, or wish to deceive you. Mark under what pretences you have been led on to the brink of insurrection and treason, on which you stand! First, a diminution of the value of your staple commodity, lowered by over production in other quarters, and the consequent diminution in the value of your lands, were the sole effect of the tariff laws.

"The effect of those laws was confessedly injurious, but the evil was greatly exaggerated by the unfounded theory you were taught to believe, that its burdens were in proportion to your exports, not to your consumption of imported articles. Your pride was roused by the assertion that a submission to those laws was a state of vassalage, and that resistance to them was equal, in patriotic merit, to the oppositions our fathers offered to the oppressive laws of Great Britain. You were told this opposition might be peaceably, might be constitutionally made; that you might enjoy all the advantages of the Union, and bear none of its burdens. Eloquent appeals to your passions, to your State pride, to your native courage, to your sense of real injury, were used to prepare you for the period when the mask, which concealed the hideous features of disunion, should be taken off. It fell, and you were made to look with complacency on objects which, not long since, you would have regarded with horror. Look back to the arts which have brought you to this state; look forward to the consequences to which it must inevitably lead! Look back to what was first told you as an inducement to enter into this dangerous course. The great political truth was repeated to you, that you had the revolutionary right of resisting all laws that were palpably unconstitutional and intolerably oppressive; it was added that the right to nullify a law rested on the same principle, but that it was a peaceable remedy! This character which was given to it, made you receive with too much confidence the assertions that were made of the unconstitutionality of the law, and its oppressive effects. Mark, my fellow-citizens, that, by the admission of your leaders, the unconstitutionality must be palpable, or it will not justify either resistance or nullification! What is the meaning of the word palpable, in the sense in which it is here used? That which is apparent to every one; that which no man of ordinary intellect will fail to perceive. Is the unconstitutionality of these laws of that description? Let those among your leaders who once approved and advocated the principle of protective duties, answer the question; and let them choose whether they will be considered as incapable, then, of perceiving that which must have been apparent to every man of common understanding, or as imposing upon your confidence, and endeavoring to mislead you now. In either case they are unsafe guides in the perilous path they urge you to tread. Ponder well on this circumstance, and you will know how to appreciate the exaggerated language they address to you. They are not champions of liberty emulating the fame of our revolutionary fathers; nor are you an oppressed people, contending, as they repeat to you, against worse than colonial vassalage.

"You are free members of a flourishing and happy Union. There is no settled design to oppress you. You have indeed felt the unequal operation of laws which may have been unwisely, not unconstitutionally passed; but that inequality must necessarily be removed. At the very moment when you were madly urged on to the unfortunate course you have begun, a change in public opinion had commenced. The nearly approaching payment of the public debt, and the consequent necessity of a diminution of duties, had already produced a considerable reduction, and that, too, on some articles of general consumption in your State. The importance of this change was underrated, and you were authoritatively told that no further alleviation of your burdens was to be expected, at the very time when the condition of the country imperiously demanded such a modification of the duties as should reduce them to a just and equitable scale. But, as if apprehensive of the effect of this change in allaying your discontents, you were precipitated into the fearful state in which you now find yourselves.

"I adjure you, as you honor their memory: as you love the cause of freedom, to which they dedicated their lives; as you prize the peace of your country, the lives of its best citizens, and your own fair fame, to retrace your steps. Snatch from the archives of your State the disorganizing edict of its convention; bid its members to reassemble, and promulgate the decided expressions of your will to remain in the path which alone can conduct you to safety, prosperity and honor. Tell them that, compared to disunion, all other evils are light, because that brings with it an accumulation of all. Declare that you will never take the field unless the star-spangled banner of your country shall float over you; that you will not be stigmatized when dead, and dishonored and scorned while you live, as the authors of the first attack on the constitution of your country. Its destroyers you cannot be. You may disturb its peace, you may interrupt the course of its prosperity, you may cloud its reputation for stability, but its tranquillity will be restored, its prosperity will return, and the stain upon its national character will be transferred, and remain an eternal blot on the memory of those who caused the disorder.

"Fellow-citizens of the United States, the threat of unhallowed disunion, the names of those, once respected, by whom it is uttered

the array of military force to support it, denote the approach of a crisis in our affairs, on which the continuance of our unexampled prosperity, our political existence, and perhaps that of all free governments, may depend. The conjuncture demanded a free, a full, and explicit enunciation, not only of my intentions, but of my principles of action; and, as the claim was asserted of a right by a State to annul the laws of the Union, and even to secede from it at pleasure, a frank exposition of my opinions in relation to the origin and form of our government, and the construction I give to the instrument by which it was created, seemed to be proper. Having the fullest confidence in the justness of the legal and constitutional opinion of my duties, which has been expressed, I rely, with equal confidence, on your undivided support in my determination to execute the laws, to preserve the Union by all constitutional means, to arrest, if possible, by moderate, but firm measures, the necessity of a recourse to force; and, if it be the will of Heaven that the recurrence of its primeval curse on man for the shedding of a brother's blood should fall upon our land, that it be not called down by any offensive act on the part of the United States.

"Fellow-citizens: The momentous case is before you. On your undivided support of your government depends the decision of the great question it involves, whether your sacred Union will be preserved, and the blessings it secures to us as one people shall be perpetuated. No one can doubt that the unanimity with which that decision will be expressed, will be such as to inspire new confidence in republican institutions, and that the prudence, the wisdom, and the courage which it will bring to their defence, will transmit them unimpaired and invigorated to our children."

CHAPTER LXXX.

MESSAGE ON THE SOUTH CAROLINA PROCEEDINGS.

In his annual message to Congress at the opening of the session 1832-'33, the President had adverted to the proceedings in South Carolina, hinting at their character as inimical to the Union, expressing his belief that the action in reducing the duties which the extinction of the public debt would permit and require, would put an end to those proceedings; and if they did not, and those proceedings continued, and the executive government should need greater powers than it possessed to overcome them, he promised to make a communication to Congress, showing the state of the question,—what had been done to compose it,—and asking for the powers which the exigency demanded. The proceedings not ceasing, and taking daily a more aggravated form in the organization of troops, the collection of arms and of munitions of war, and in declarations hostile to the Union, he found himself required, early in January, to make the promised communication; and did so in a message to both Houses, of which the following are the essential parts which belong to history and posterity:

"Since the date of my last annual message, I have had officially transmitted to me by the Governor of South Carolina, which I now communicate to Congress, a copy of the ordinance passed by the convention which assembled at Columbia, in the State of South Carolina, in November last, declaring certain acts of Congress therein mentioned, within the limits of that State, to be absolutely null and void, and making it the duty of the legislature to pass such laws as would be necessary to carry the same into effect from and after the 1st of February next

"The consequences to which this extraordinary defiance of the just authority of the government might too surely lead, were clearly foreseen, and it was impossible for me to hesi tate as to my own duty in such an emergency.

"The ordinance had been passed, however, without any certain knowledge of the recommendation which, from a view of the interests of the nation at large, the Executive had determined to submit to Congress; and a hope was indulged that, by frankly explaining his sentiments, and the nature of those duties which the crisis would devolve upon him, the authorities of South Carolina might be induced to retrace their steps. In this hope, I determined to issue my proclamation of the 10th of December last, a copy of which I now lay before Congress.

"I regret to inform you that these reasonable expectations have not been realized, and that the several acts of the legislature of South Carolina, which I now lay before you, and which have, all and each of them, finally passed, after a knowledge of the desire of the administration to modify the laws complained of, are too well calculated, both in their positive enactments, and in the spirit of opposition which they obviously encourage, wholly to obstruct the collection of the revenue within the limits of that State.

"Up to this period, neither the recommendation of the Executive in regard to our financial policy and impost system, nor the disposition manifested by Congress promptly to act upon that subject, nor the unequivocal expression of the public will, in all parts of the Union, appears to have produced any relaxation in the

measures of opposition adopted by the State of South Carolina; nor is there any reason to hope that the ordinance and laws will be abandoned.

"I have no knowledge that an attempt has been made, or that it is in contemplation, to reassemble either the convention or the legislature; and it will be perceived that the interval before the 1st of February is too short to admit of the preliminary steps necessary for that purpose. It appears, moreover, that the State authorities are actively organizing their military resources, and providing the means, and giving the most solemn assurances of protection and support to all who shall enlist in opposition to the revenue laws.

"A recent proclamation of the present Governor of South Carolina has openly defied the authority of the Executive of the Union, and general orders from the head quarters of the State announced his determination to accept the services of volunteers, and his belief that, should their country need their services, they will be found at the post of honor and duty, ready to lay down their lives in her defence. Under these orders, the forces referred to are directed to 'hold themselves in readiness to take the field at a moment's warning;' and in the city of Charleston, within a collection district and a port of entry, a rendezvous has been opened for the purpose of enlisting men for the magazine and municipal guard. Thus, South Carolina presents herself in the attitude of hostile preparation, and ready even for military violence, if need be, to enforce her laws for preventing the collection of the duties within her limits.

"Proceedings thus announced and matured must be distinguished from menaces of unlawful resistance by irregular bodies of people, who, acting under temporary delusion, may be restrained by reflection, and the influence of public opinion, from the commission of actual outrage. In the present instance, aggression may be regarded as committed when it is officially authorized, and the means of enforcing it fully provided.

"Under these circumstances, there can be no doubt that it is the determination of the authorities of South Carolina fully to carry into effect their ordinance and laws after the 1st of February. It therefore becomes my duty to bring the subject to the serious consideration of Congress, in order that such measures as they, in their wisdom, may deem fit, shall be seasonably provided; and that it may be thereby understood that, while the government is disposed to remove all just cause of complaint, as far as may be practicable consistently with a proper regard to the interests of the community at large, it is, nevertheless, determined that the supremacy of the laws shall be maintained.

"In making this communication, it appears to me to be proper not only that I should lay before you the acts and proceedings of South Carolina, but that I should also fully acquaint you with those steps which I have already caused to be taken for the due collection of the revenue, and with my views of the subject generally, that the suggestions which the constitution requires me to make, in regard to your future legislation, may be better understood.

"This subject, having early attracted the anxious attention of the Executive, as soon as it was probable that the authorities of South Carolina seriously meditated resistance to the faithful execution of the revenue laws, it was deemed advisable that the Secretary of the Treasury should particularly instruct the officers of the United States, in that part of the Union, as to the nature of the duties prescribed by the existing laws.

"Instructions were accordingly issued, on the sixth of November, to the collectors in that State, pointing out their respective duties, and enjoining upon each a firm and vigilant, but discreet performance of them in the emergency then apprehended.

"I herewith transmit copies of these instructions, and of the letter addressed to the district attorney, requesting his co-operation. These instructions were dictated in the hope that, as the opposition to the laws, by the anomalous proceeding of nullification, was represented to be of a pacific nature, to be pursued, substantially, according to the forms of the constitution, and without resorting, in any event, to force or violence, the measures of its advocates would be taken in conformity with that profession, and, on such supposition, the means afforded by the existing laws would have been adequate to meet any emergency likely to arise.

"It was, however, not possible altogether to suppress apprehension of the excesses to which the excitement prevailing in that quarter might lead; but it certainly was not foreseen that the meditated obstruction to the laws would so soon openly assume its present character.

"Subsequently to the date of those instructions, however, the ordinance of the convention was passed, which, if complied with by the people of that State, must effectually render inoperative the present revenue laws within her limits.

"This solemn denunciation of the laws and authority of the United States has been followed up by a series of acts, on the part of the authorities of that State, which manifest a determination to render inevitable a resort to those measures of self-defence which the paramount duty of the federal government requires; but, upon the adoption of which, that State will proceed to execute the purpose it has avowed in this ordinance, of withdrawing from the Union.

"On the 27th of November, the legislature assembled at Columbia; and, on their meeting, the Governor laid before them the ordinance of the convention. In his message, on that occasion, he acquaints them that 'this ordinance ha thus become a part of the fundamental law of South Carolina;' that 'the die has been at last cast, and South Carolina has at length appealed

to her ulterior sovereignty as a member of this confederacy, and has planted herself on her reserved rights. The rightful exercise of this power is not a question which we shall any longer argue. It is sufficient that she has willed it, and that the act is done; nor is its strict compatibility with our constitutional obligation to all laws passed by the general government, within the authorized grants of power, to be drawn in question, when this interposition is exerted in a case in which the compact has been palpably, deliberately, and dangerously violated. That it brings up a conjuncture of deep and momentous interest, is neither to be concealed nor denied. This crisis presents a class of duties which is referable to yourselves. You have been commanded by the people, in their highest sovereignty, to take care that, within the limits of this State, their will shall be obeyed.' 'The measure of legislation,' he says, 'which you have to employ at this crisis, is the precise amount of such enactments as may be necessary to render it utterly impossible to collect, within our limits, the duties imposed by the protective tariffs thus nullified.' He proceeds: 'That you should arm every citizen with a civil process, by which he may claim, if he pleases, a restitution of his goods, seized under the existing imposts, on his giving security to abide the issue of a suit at law, and, at the same time, define what shall constitute treason against the State, and, by a bill of pains and penalties, compel obedience, and punish disobedience to your own laws, are points too obvious to require any discussion. In one word, you must survey the whole ground. You must look to and provide for all possible contingencies. In your own limits, your own courts of judicature must not only be supreme, but you must look to the ultimate issue of any conflict of jurisdiction and power between them and the courts of the United States.'

"The Governor also asks for power to grant clearances, in violation of the laws of the Union; and, to prepare for the alternative which must happen, unless the United States shall passively surrender their authority, and the Executive, disregarding his oath, refrain from executing the laws of the Union, he recommends a thorough revision of the militia system, and that the Governor "be authorized to accept, for the defence of Charleston and its dependencies, the services of two thousand volunteers, either by companies or files;' and that they be formed into a legionary brigade, consisting of infantry, riflemen, cavalry, field and heavy artillery; and that they be 'armed and equipped, from the public arsenals, completely for the field; and that appropriations be made for supplying all deficiencies in our munitions of war.' In addition to these volunteer draughts, he recommends that the Governor be authorized 'to accept the services of ten thousand volunteers from the other divisions of the State, to be organized and arranged in regiments and brigades;' the officers to be selected by the commander-in-chief; and that this whole force be called the 'State Guard.'

"If these measures cannot be defeated and overcome, by the power conferred by the constitution on the federal government, the constitution must be considered as incompetent to its own defence, the supremacy of the laws is at an end, and the rights and liberties of the citizens can no longer receive protection from the government of the Union. They not only abrogate the acts of Congress, commonly called the tariff acts of 1828 and 1832, but they prostrate and sweep away, at once, and without exception, every act, and every part of every act, imposing any amount whatever of duty on any foreign merchandise; and, virtually, every existing act which has ever been passed authorizing the collection of the revenue, including the act of 1816, and, also, the collection law of 1799, the constitutionality of which has never been questioned. It is not only those duties which are charged to have been imposed for the protection of manufactures that are thereby repealed, but all others, though laid for the purpose of revenue merely, and upon articles in no degree suspected of being objects of protection. The whole revenue system of the United States, in South Carolina, is obstructed and overthrown; and the government is absolutely prohibited from collecting any part of the public revenue within the limits of that State. Henceforth, not only the citizens of South Carolina and of the United States, but the subjects of foreign states, may import any description or quantity of merchandise into the ports of South Carolina, without the payment of any duty whatsoever. That State is thus relieved from the payment of any part of the public burdens, and duties and imposts are not only rendered not uniform throughout the United States, but a direct and ruinous preference is given to the ports of that State over those of all the other States of the Union, in manifest violation of the positive provisions of the constitution.

"In point of duration, also, those aggressions upon the authority of Congress, which, by the ordinance, are made part of the fundamental law of South Carolina, are absolute, indefinite, and without limitation. They neither prescribe the period when they shall cease, nor indicate any conditions upon which those who have thus undertaken to arrest the operation of the laws are to retrace their steps, and rescind their measures. They offer to the United States no alternative but unconditional submission. If the scope of the ordinance is to be received as the scale of concession, their demands can be satisfied only by a repeal of the whole system of revenue laws, and by abstaining from the collection of any duties or imposts whatsoever.

"By these various proceedings, therefore, the State of South Carolina has forced the general government, unavoidably, to decide the new and dangerous alternative of permitting a State to obstruct the execution of the laws within its limits, or seeing it attempt to execute a threat

of withdrawing from the Union. That portion of the people at present exercising the authority of the State, solemnly assert their right to do either, and as solemnly announce their determination to do one or the other.

"In my opinion. both purposes are to be regarded as revolutionary in their character and tendency, and subversive of the supremacy of the laws and of the integrity of the Union. The result of each is the same; since a State in which, by a usurpation of power, the constitutional authority of the federal government is openly defied and set aside, wants only the form to be independent of the Union.

"The right of the people of a single State to absolve themselves at will, and without the consent of the other States, from their most solemn obligations, and hazard the liberties and happiness of the millions composing this Union, cannot be acknowledged. Such authority is believed to be utterly repugnant both to the principles upon which the general government is constituted, and to the objects which it is expressly formed to attain.

"Against all acts which may be alleged to transcend the constitutional power of the government, or which may be inconvenient or oppressive in their operation, the constitution itself has prescribed the modes of redress. It is the acknowledged attribute of free institutions, that, under them, the empire of reason and law is substituted for the power of the sword. To no other source can appeals for supposed wrongs be made, consistently with the obligations of South Carolina; to no other can such appeals be made with safety at any time; and to their decisions, when constitutionally pronounced, it becomes the duty, no less of the public authorities than of the people, in every case to yield a patriotic submission.

"In deciding upon the course which a high sense of duty to all the people of the United States imposes upon the authorities of the Union, in this emergency, it cannot be overlooked that there is no sufficient cause for the acts of South Carolina, or for her thus placing in jeopardy the happiness of so many millions of people. Misrule and oppression, to warrant the disruption of the free institutions of the Union of these States, should be great and lasting, defying all other remedy. For causes of minor character, the government could not submit to such a catastrophe without a violation of its most sacred obligations to the other States of the Union who have submitted their destiny to its hands.

"There is, in the present instance, no such cause, either in the degree of misrule or oppression complained of, or in the hopelessness of redress by constitutional means. The long sanction they have received from the proper authorities, and from the people, not less than the unexampled growth and increasing prosperity of so many millions of freemen, attest that no such oppression as would justify or even palliate such a resort, can be justly imputed either to the present policy or past measures of the federal government. The same mode of collecting duties, and for the same general objects, which began with the foundation of the government, and which has conducted the country, through its subsequent steps, to its present enviable condition of happiness and renown, has not been changed. Taxation and representation, the great principle of the American Revolution, have continually gone hand in hand; and at all times, and in every instance, no tax, of any kind, has been imposed without their participation; and in some instances, which have been complained of, with the express assent of a part of the representatives of South Carolina in the councils of the government. Up to the present period, no revenue has been raised beyond the necessary wants of the country, and the authorized expenditures of the government. And as soon as the burden of the public debt is removed, those charged with the administration have promptly recommended a corresponding reduction of revenue.

"That this system, thus pursued, has resulted in no such oppression upon South Carolina, needs no other proof than the solemn and official declaration of the late Chief Magistrate of that State, in his address to the legislature. In that he says, that 'the occurrences of the past year, in connection with our domestic concerns, are to be reviewed with a sentiment of fervent gratitude to the Great Disposer of human events; that tributes of grateful acknowledgment are due for the various and multiplied blessings he has been pleased to bestow on our people; that abundant harvests, in every quarter of the State, have crowned the exertions of agricultural labor; that health, almost beyond former precedent, has blessed our homes; and that there is not less reason for thankfulness in surveying our social condition.' It would, indeed, be difficult to imagine oppression where, in the social condition of a people, there was equal cause of thankfulness as for abundant harvests, and varied and multiplied blessings with which a kind Providence had favored them.

"Independently of these considerations, it will not escape observation that South Carolina still claims to be a component part of the Union, to participate in the national councils, and to share in the public benefits, without contributing to the public burdens; thus asserting the dangerous anomaly of continuing in an association without acknowledging any other obligation to its laws than what depends upon her own will.

"In this posture of affairs, the duty of the government seems to be plain. It inculcates a recognition of that State as a member of the Union, and subject to its authority; a vindication of the just power of the constitution; the preservation of the integrity of the Union; and the execution of the laws by all constitutional means.

"The constitution, which has oath of office

obliges him to support, declares that the Executive 'shall take care that the laws be faithfully executed;' and, in providing that he shall, from time to time, give to Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient, imposes the additional obligation of recommending to Congress such more efficient provision for executing the laws as may, from time to time, be found requisite.

"It being thus shown to be the duty of the Executive to execute the laws by all constitutional means, it remains to consider the extent of those already at his disposal, and what it may be proper further to provide.

"In the instructions of the Secretary of the Treasury to the collectors in South Carolina, the provisions and regulations made by the act of 1799, and also the fines, penalties, and forfeitures, for their enforcement, are particularly detailed and explained. It may be well apprehended, however, that these provisions may prove inadequate to meet such an open, powerful, organized opposition as is to be commenced after the first day of February next.

"Under these circumstances, and the provisions of the acts of South Carolina, the execution of the laws is rendered impracticable even through the ordinary judicial tribunals of the United States. There would certainly be fewer difficulties, and less opportunity of actual collision between the officers of the United States and of the State, and the collection of the revenue would be more effectually secured—if indeed it can be done in any other way—by placing the custom-house beyond the immediate power of the county.

"For this purpose, it might be proper to provide that whenever, by any unlawful combination or obstruction in any State, or in any port, it should become impracticable faithfully to collect the duties, the President of the United States should be authorized to alter and abolish such of the districts and ports of entry as should be necessary, and to establish the custom-house at some secure place within some port or harbor of such State; and, in such cases, it should be the duty of the collector to reside at such place, and to detain all vessels and cargoes until the duties imposed by law should be properly secured or paid in cash, deducting interest; that, in such cases it should be unlawful to take the vessel and cargo from the custody of the proper officer of the customs, unless by process from the ordinary judicial tribunals of the United States; and that, in case of an attempt otherwise to take the property by a force too great to be overcome by the officers of the customs, it should be lawful to protect the possession of the officers by the employment of the land and naval forces, and militia, under provisions similar to those authorized by the 11th section of the act of the ninth of January, 1809.

"It may, therefore, be desirable to revive, with some modifications better adapted to the occasion, the 6th section of the act of the 3d of March, 1815, which expired on the 4th of March, 1817, by the limitation of that of the 27th of April, 1816; and to provide that, in any case where suit shall be brought against any individual in the courts of the State, for any act done under the laws of the United States, he should be authorized to remove the said cause, by petition, into the Circuit Court of the United States, without any copy of the record, and that the courts should proceed to hear and determine the same as if it had been originally instituted therein. And that in all cases of injuries to the persons or property of individuals for disobedience to the ordinance, and laws of South Carolina in pursuance thereof, redress may be sought in the courts of the United States. It may be expedient, also, by modifying the resolution of the 3d of March, 1791, to authorize the marshals to make the necessary provision for the safe keeping of prisoners committed under the authority of the United States.

"Provisions less than these, consisting, as they do, for the most part, rather of a revival of the policy of former acts called for by the existing emergency, than of the introduction of any unusual or rigorous enactments, would not cause the laws of the Union to be properly respected or enforced. It is believed these would prove adequate, unless the military forces of the State of South Carolina, authorized by the late act of the legislature, should be actually embodied and called out in aid of their proceedings, and of the provisions of the ordinance generally. Even in that case, however, it is believed that no more will be necessary than a few modifications of its terms, to adapt the act of 1795 to the present emergency, as, by the act, the provisions of the law of 1792 were accommodated to the crisis then existing; and by conferring authority upon the President to give it operation during the session of Congress, and without the ceremony of a proclamation, whenever it shall be officially made known to him by the authority of any State, or by the courts of the United States, that, within the limits of such State, the laws of the United States will be openly opposed, and their execution obstructed, by the actual employment of military force, or by any unlawful means whatsoever, too great to be otherwise overcome.

"In closing this communication, I should do injustice to my own feelings not to express my confident reliance upon the disposition of each department of the government to perform its duty, and to co-operate in all measures necessary in the present emergency.

"The crisis undoubtedly invokes the fidelity of the patriot and the sagacity of the statesman, not more in removing such portion of the public burden as may be necessary, than in preserving the good order of society, and in the maintenance of well-regulated liberty.

"While a forbearing spirit may, and I trust will be exercised towards the errors of our

brethren in a particular quarter, duty to the rest of the Union demands that open and organized resistance to the laws should not be executed with impunity."

Such was the message which President Jackson sent to the two Houses, in relation to the South Carolina proceedings, and his own to counteract them; and it was worthy to follow the proclamation, and conceived in the same spirit of justice and patriotism, and, therefore, wise and moderate. He knew that there was a deep feeling of discontent in the South, founded in a conviction that the federal government was working disadvantageously to that part of the Union in the vital points of the levy, and the expenditure of the federal revenue; and that it was upon this feeling that politicians operated to produce disaffection to the Union. That feeling of the masses he knew to be just and reasonable, and removable by the action of Congress in removing its cause; and when removed the politicians who stirred up discontent for "*personal and ambitious objects*," would become harmless for want of followers, or manageable by the ordinary process of law. His proclamation, his message, and all his proceedings therefore bore a two-fold aspect—one of relief and justice in reducing the revenue to the wants of the government in the economical administration of its affairs; the other of firm and mild authority in enforcing the laws against offenders. He drew no line between the honest discontented masses, wanting only relief and justice, and the ambitious politicians inflaming this discontent for ulterior and personal objects. He merely affirmed the existence of these two classes of discontent, leaving to every one to classify himself by his conduct; and, certain that the honest discontents were the mass, and only wanted relief from a real grievance, he therefore pursued the measures necessary to extend that relief while preparing to execute the laws upon those who should violate them. Bills for the reduction of the tariff—one commenced in the Finance Committee of the Senate, and one reported from the Committee of Ways and Means of the House of Representatives—and both moved in the first days of the session, and by committees politically and personally favorable to the President, went hand in hand with the exhortations in the proclamation and the steady preparations for enforcing the laws, if the extension of justice and the appeals of reason and patriotism should prove insufficient. Many thought that he ought to relax in his civil measures for allaying discontent while South Carolina held the military attitude of armed defiance to the United States—and among them Mr. Quincy Adams. But he adhered steadily to his purpose of going on with what justice required for the relief of the South, and promoted, by all the means in his power the success of the bills to reduce the revenue, especially the bill in the House; and which, being framed upon that of 1816 (which had the support of Mr. Calhoun), and which was (now that the public debt was paid), sufficient both for revenue and the incidental protection which manufactures required, and for the relief of the South, must have the effect of satisfying every honest discontent, and of exposing and estopping that which was not.

CHAPTER LXXXI.

REDUCTION OF DUTIES.—MR. VERPLANK'S BILL.

Reduction of duties to the estimated amount of three or four millions of dollars, had been provided for in the bill of the preceding session, passed in July, 1832, to take effect on the 4th of March, ensuing. The amount of reduction was not such as the state of the finances admitted, or the voice of the country demanded, but was a step in the right direction, and a good one, considering that the protective policy was still dominant in Congress, and on trial, as it were, for its life, before the people, as one of the issues of the presidential election. That election was over; the issue had been tried; had been found against the "American system," and with this finding, a further and larger reduction of duties was expected. The President had recommended it, in his annual message; and the recommendation, being referred to the Committee of Ways and Means, quickly produced a bill, known as Mr. Verplank's, because reported by the member of that name. It was taken up promptly by the House, and received a very perspicuous explanation from the reporter, who gave a brief view of the financial history of the country, since the late war and stated that—

"During the last six years, an annual average income of 27,000,000 of dollars had been received; the far greater part from the customs. That this sum had been appropriated, the one half towards the necessary expenses of the government, and the other half in the payment of the public debt. In reviewing the regular calls upon the treasury, during the last seven years, for the civil, naval, and military departments of the government, including all ordinary contingencies, about 13,000,000 of dollars a year had been expended. The amount of 13,000,000 of dollars would seem, even now, sufficient to cover the standing necessary expenses of government. A long delayed debt of public justice, for he would not call it bounty, to the soldiers of the Revolution, had added, for the present, since it could be but for a few years only, an additional annual million. Fourteen millions of dollars then covered the necessary expenditures of our government. But, however rigid and economical we ought to be in actual expenditures, in providing the sources of the revenue, which might be called upon for unforeseen contingencies, it was wise to arrange it on a liberal scale. This would be done by allowing an additional million, which would cover, not only extra expenses in time of peace, but meet those of Indian warfare, if such should arise, as well as those of increased naval expenditure, from temporary collisions with foreign powers, short of permanent warfare. We are not, therefore, justifiable in raising more than 15,000,000 dollars as a permanent revenue. In other words, at least 13,000,000 dollars of the revenue that would have been collected, under the tariff system of 1828, may now be dispensed with; and, in years of great importation, a much larger sum. The act of last summer removed a large portion of this excess; yet, taking the importation of the last year as a standard, the revenues derived from that source, if calculated according to the act of 1832, would produce 19,500,000, and, with the other sources of revenue, an income of 22,000,000 dollars. This is, at least, seven millions above the wants of the treasury."

This was a very satisfactory statement. The public debt paid off; thirteen millions (the one half) of our revenue rendered unnecessary; its reduction provided for in the bill; and the tariff of duties by that reduction brought down to the standard subtantially of 1816. It was carrying back the protective system to the year of its commencement, a little increased in some particulars, as in the article of iron, but more than compensated for, in this increase, in the total abolition of the *minimums*, or abritrary valuations—first introduced into that act, and afterwards greatly extended—by which goods costing below a certain sum were to be assumed to have cost that sum, and rated for duty accordingly. Such a bill, in the judgment of the practical and experienced legislator (General Smith, of Maryland, himself a friend to the manufacturing interest), was entirely sufficient for the manufacturer—the man engaged in the business, and understanding it—though not sufficient for the capitalists who turned their money into that channel, under the stimulus of legislative protection, and lacked skill and care to conduct their enterprise with the economy which gives legitimate profit, and to such real manufacturers, it was bound to be satisfactory. To the great opponents of the tariff (the South Carolina school), it was also bound to be satisfactory, as it carried back the whole system of duties to the standard at which that school had fixed them, with the great amelioration of the total abolition of the arbritrary and injurious minimums. The bill, then, seemed bound to conciliate every fair interest: the government, because it gave all the revenue it needed; the real manufacturers, because it gave them an adequate incidental protection; the South, because it gave them their own bill, and that ameliorated. A prompt passage of the bill might have been expected; on the contrary, it lingered in the House, under interminable debates on systems and theories, in which ominous signs of conjunction were seen between the two extremes which had been lately pitted against each other, for and against the protective system. The immediate friends of the administration seemed to be the only ones hearty in the support of the bill; but they were no match, in numbers, for those who acted in concert against it—spinning out the time in sterile and vagrant debate. The 25th of February had arrived, and found the bill still afloat upon the wordy sea of stormy debate, when, all of a sudden, it was arrested, knocked over, run under, and merged and lost in a new one which expunged the old one and took its place. It was late in the afternoon of that day (Monday, the 25th of February), and within a week of the end of the Congress, when Mr. Letcher, of Kentucky, the fast friend of Mr. Clay, rose in his place, and moved to strike out the whole Verplank bill—every word, except the enacting clause—and insert, in lieu of it, a bill offered in the Senate by Mr. Clay, since called the "compromise," and which lingered at the door of the Senate, upon a question of leave for its admit-

tance, and opposition to its entrance there, on account of its revenue character. This was offered in the House, without notice, without signal, without premonitory symptom, and just as the members were preparing to adjourn. Some were taken by surprise, and looked about in amazement; but the majority showed consciousness, and, what was more, readiness for action. The Northern members, from the great manufacturing States, were astounded, and asked for delay, which, not being granted, Mr. John Davis, of Massachusetts, one of their number, thus gave vent to his amazed feelings:

"He was greatly surprised at the sudden movement made in this House. One short hour ago, said he, we were collecting our papers, and putting on our outside garments to go home, when the gentleman from Kentucky rose, and proposed to send this bill to a Committee of the Whole on the state of the Union, with instructions to strike it all out, and insert, by way of amendment, an entire new bill, formed upon entirely different principles; yes, to insert, I believe, the bill which the Senate now have under consideration. This motion was carried; the business has passed through the hands of the committee, is now in the House, and there is a cry of question, question, around me, upon the engrossment of the bill. Who that was not a party to this arrangement, could one hour ago have credited this? We have, I believe, been laboriously engaged for eight weeks upon this topic, discussing and amending the bill which has been before the House. Such obstacles and difficulties have been met at every move, that, I believe, very little hope has of late been entertained of the passage of any bill. But a gleam of light has suddenly burst upon us; those that groped in the dark seemed suddenly to see their course; those that halted, doubted, hesitated, are in a moment made firm; and even some of those that have made an immediate abandonment of the protective system a *sine qua non* of their approbation of any legislation, seem almost to favor this measure. I am obliged to acknowledge that gentleman have sprung the proposition upon us at a moment when I did not expect it. And as the measure is one of great interest to the people of the United States, I must, even at this late hour, when I know the House is both hungry and impatient, and when I perceive distinctly it is their pleasure to vote rather than debate, beg their indulgence for a few minutes while I state some of the reasons which impose on me the duty of opposing the passage of this act. [Cries from different parts of the House, 'go on, go on, we will hear.']

"Mr. Speaker, I do not approve of hasty legislation under any circumstances, but it is especially to be deprecated in matters of great importance. That this is a measure of great importance, affecting, more or less, the entire population of the United States, will not be denied, and ought, therefore, to be matured with care, and well understood by every gentleman who votes upon it. And yet, sir, a copy has, for the first time, been laid upon our tables, since I rose to address you; and this is the first opportunity we have had even to read it. I hope others feel well prepared to act in this precipitate matter; but I am obliged to acknowledge I do not; for I hold even the best of intentions will not, in legislation, excuse the errors of haste.

"I am aware that this measure assumes an imposing attitude. It is called a bill of compromise; a measure of harmony, of conciliation; a measure to heal disaffection, and to save the Union. Sir, I am aware of the imposing effect of these bland titles; men love to be thought generous, noble, magnanimous; but they ought to be equally anxious to acquire the reputation of being just. While they are anxious to compose difficulties in one direction. I entreat them not to oppress and wrong the people in another. In their efforts to save the Union, I hope their zeal will not go so far as to create stronger and better-founded discontents than those they compose. Peacemakers, mediators, men who allay excitements, and tranquillize public feeling, should, above all considerations, study to do it by means not offensive to the contending parties, by means which will not inflict a deeper wound than the one which is healed. Sir, what is demanded by those that threaten the integrity of the Union? An abandonment of the American system; a formal renunciation of the right to protect American industry. This is the language of the nullification convention; they declare they regard the abandonment of the principle as vastly more important than any other matter; they look to that, and not to an abatement of duties without it; and the gentleman from South Carolina [Mr. Davis], with his usual frankness, told us this morning it was not a question of dollars and cents; the money they regarded not, but they required a change of policy.

"This is a bill to tranquillize feeling, to harmonize jarring opinions; it is oil poured into inflamed wounds; it is to definitively settle the matters of complaint. What assurance have we of that? Have those who threatened the Union accepted it? Has any one here risen in his place, and announced his satisfaction and his determination to abide by it? Not a word has been uttered, nor any sign or assurance of satisfaction given. Suppose they should vote for the bill, what then? They voted for the bill of July last, and that was a bill passed expressly to save the Union; but did they not flout at it? Did they not spurn it with contempt? And did not South Carolina, in derision of that compromise, nullify the law? This is a practical illustration of the exercise of a philanthropic spirit of con-

descension to save the Union. Your folly and your imbecility was treated as a jest. It has already been said that this law will be no more binding than any other, and may be altered and modified at pleasure by any subsequent legislature. In what sense then is it a compromise? Does not a compromise imply an adjustment on terms of agreement? Suppose, then, that South Carolina should abide by the compromise while she supposes it beneficial to the tariff States, and injurious to her; and when that period shall close, the friends of protection shall then propose to re-establish the system. What honorable man, who votes for this bill, could sustain such a measure? Would not South Carolina say, you have no right to change this law, it was founded on compromise; you have had the benefit of your side of the bargains, and now I demand mine? Who could answer such a declaration? If, under such circumstances, you were to proceed to abolish the law, would not South Carolina have much more just cause of complaint and disaffection than she now has?

"It has been said, we ought to legislate now, because the next Congress will be hostile to the tariff. I am aware that such a sentiment has been industriously circulated, and we have been exhorted to escape from the hands of that body as from a lion. But, sir, who knows the sentiments of that body on this question? Do you, or does any one, possess any information which justifies him in asserting that it is more unfriendly than this House? There is, in my opinion, little known about this matter. But suppose the members shall prove as ferocious towards the tariff as those who profess to know their opinions represent, will the passage of this bill stop their action? Can you tie their hands? Give what pledges you please, make what bargains you may, and that body will act its pleasure without respecting them. If you fall short of their wishes in warring upon the tariff, they will not stay their hand; but all attempts to limit their power by abiding compromises, will be considered by them as a stimulus to act upon the subject, that they may manifest their disapprobation. It seems to me, therefore, that if the next Congress is to be feared, we are pursuing the right course to rouse their jealousy, and excite them to action.

"Mr. Speaker, I rose to express my views on this very important question, I regret to say, without the slightest preparation, as it is drawn before us at a very unexpected moment. But, as some things in this bill are at variance with the principles of public policy which I have uniformly maintained, I could not suffer it to pass into a law without stating such objections as have hastily occurred to me.

"Let me, however, before sitting down, be understood on one point. I do not object to a reasonable adjustment of the controversies which exist. I have said repeatedly on this floor, that I would go for a gradual reduction on protected articles; but it must be very gradual, so that no violence shall be done to business; for all reduction is necessarily full of hazard. My objections to this bill are not so much against the first seven years, for I would take the consequences of that experiment, if the provisions beyond that were not of that fatal character which will at once stop all enterprise. But I do object to a compromise which destines the East for the altar. No victim, in my judgement, is required, none is necessary; and yet you propose to bind us, hand and foot, to pour out our blood upon the altar, and sacrifice us as a burnt offering, to appease the unnatural and unfounded discontent of the South; *a discontent, I fear, having deeper root than the tariff, and will continue when that is forgotten.* I am far from meaning to use the language of menace, when I say such a compromise cannot endure, nor can any adjustment endure, which disregards the interests, and sports with the rights of a large portion of the people of the United States. It has been said that we shall never reach the lowest point of reduction, before the country will become satisfied of the folly of the experiment, and will restore the protective policy; and it seems to me a large number in this body act under the influence of that opinion. But I cannot vote down my principles, on the ground that some one may come after me who will vote them up."

This is one of the most sensible speeches ever delivered in Congress; and, for the side on which it was delivered, perfect; containing also much that was valuable to the other side. The dangers of hasty legislation are well adverted to The seductive and treacherous nature of compromise legislation, and the probable fate of the act of legislation then so called, so pointedly foretold, was only writing history a few years in advance. The folly of attempting to bind future Congresses by extending ordinary laws years ahead, with a prohibition to touch them, was also a judicious reflection, soon to become history; while the fear expressed that South Carolina would not be satisfied with the overthrow of the protective policy—"*that the root of her discontent lay deeper than the tariff, and would continue when that was forgotten*"—was an apprehension felt in common with many others, and to which subsequent events gave a sad realization. But all in vain. The bill which made its first appearance in the House late in the evening, when members were gathering up their overcoats for a walk home to their dinners, was passed before those coats had got on the back; and the dinner which was waiting had but little time to cool before the astonished members, their work done, were at the table to eat it. A bill

without precedent in the annals of our legislation, and pretending to the sanctity of a compromise, and to settle great questions for ever, went through to its consummation in the fragment of an evening session, without the compliance with any form which experience and parliamentary law have devised for the safety of legislation. This evasion of all salutary forms was effected under the idea of an amendment to a bill, though the substitute introduced was an entire bill in itself, no way amending the other, or even connecting with it, but rubbing it all out from the enacting clause, and substituting a new bill entirely foreign, inconsistent, and incongruous to it. The proceeding was a gross perversion of the idea of an amendment, which always implies an improvement and not a destruction of the bill to be amended. But there was a majority in waiting, ready to consummate what had been agreed upon, and the vote was immediately taken, and the substitute passed—105 to 71:—the mass of the manufacturing interest voting against it. And this was called a "compromise," a species of arrangement heretofore always considered as founded in the mutual consent of adversaries—an agreement by which contending parties voluntarily settle disputes or questions. But here one of the parties dissented, or rather was never asked for assent, nor had any knowledge of the compromise by which they were to be bound, until it was revealed to their vision, and executed upon their consciences, in the style of a surprise from a vigilant foe upon a sleeping adversary. To call this a "compromise" was to make sport of language—to burlesque misfortune—to turn force into stipulation — and to confound fraud and violence with concession and contract. It was like calling the rape of the Romans upon the Sabine women, a marriage. The suddenness of the movement, and the want of all time for reflection or concert—even one night for private communion—led to the most incongruous association of voters—to such a mixture of persons and parties as had never been seen confounded together before, or since: and the reading of which must be a puzzle to any man acquainted with the political actors of that day, the unravelling of which would set at defiance both his knowledge and his ingenuity. The following is the list—the voters with Mr. Clay, headed by Mr. Mark Alexander of Virginia, one of his stiffest opponents: the voters against him, headed by Mr. John Quincy Adams, for eight years past his indissoluble colleague in every system of policy, in every measure of public concern, and in every enterprise of political victory or defeat. Here is the list!

Yeas.—Messrs. Mark Alexander, Chilton Allan, Robert Allen, John Anderson, William G. Angel, William S. Archer, John S. Barbour, Daniel L. Barringer, James Bates, John Bell, John T. Bergen, Laughlin Bethune, James Blair, John Blair, Ratliff Boon, Joseph Bouck, Thomas T. Bouldin, John Branch, Henry A. Bullard, Churchill C. Cambreleng, John Carr, Joseph W. Chinn, Nathaniel H. Claiborne, Clement C. Clay, Augustin S. Clayton, Richard Coke, jr., Henry W. Connor, Thomas Corwin, Richard Coulter, Robert Craig, William Creighton, jr., Henry Daniel, Thomas Davenport, Warren R. Davis, Ulysses F. Doubleday, Joseph Draper, John M. Felder, James Findlay, William Fitzgerald, Nathan Gaither, John Gilmore, William F. Gordon, Thomas H. Hall, William Hall, Joseph M. Harper, Albert G. Hawes, Micajah T. Hawkins, Michael Hoffman, Cornelius Holland, Henry Horn, Benjamin C. Howard, Henry Hubbard, William W. Irvin, Jacob C. Isaacs, Leonard Jarvis, Daniel Jenifer, Richard M. Johnson, Cave Johnson, Joseph Johnson, Edward Kavanagh, John Leeds Kerr, Henry G. Lamar, Garret Y. Lansing, Joseph Lecompte, Robert P. Letcher, Dixon H. Lewis, Chittenden Lyon, Samuel W. Mardis, John Y. Mason, Thomas A. Marshall, Lewis Maxwell, Rufus McIntire, James McKay, Thomas Newton, William T. Nuckolls, John M. Patton, Franklin E. Plummer, James K. Polk, Abraham Rencher, John J. Roane, Erastus Root, Charles S. Sewall, William B. Shepard, Augustine H. Shepperd, Samuel A. Smith, Isaac Southard, Jesse Speight, John S. Spence, William Stanberry, James Standefer, Francis Thomas, Wiley Thompson, John Thomson, Christopher Tompkins, Phineas L. Tracy, Joseph Vance, Gulian C. Verplanck, Aaron Ward, George C. Washington, James M. Wayne, John W. Weeks, Elisha Whittlesey, Campbell P. White, Charles A. Wickliffe, John T. H. Worthington.

Nays.—Messrs. John Q. Adams, Heman Allen, Robert Allison, Nathan Appleton, Thomas D. Arnold, William Babcock, John Banks, Noyes Barber, Gamaliel H. Barstow, Thomas Chandler, Bates Cooke, Richard M. Cooper, Joseph H. Crane, Thomas H. Crawford, John Davis, Charles Dayan, Henry A. S. Dearborn, Harmar Denny, Lewis Dewart, John Dickson, William W. Ellsworth, George Evans, Joshua Evans, Edward Everett, Horace Everett, George Grennell, jr., Hiland Hall, William Heister, Michael Hoffman, Thomas H. Hughes, Jabez W Huntington, Peter Ihrie, jr., Ralph I. Ingersoll Joseph G. Kendall, Henry King, Humphrey H

Leavitt, Robert McCoy, Thomas M. T. McKennan, John J. Milligan, Henry A. Muhlenberg, Jeremiah Nelson, Dutee J. Pearce, Edmund H. Pendleton, Job Pierson, David Potts, jr., James F. Randolph, John Reed, Edward C. Reed, William Slade, Nathan Soule, William L. Storrs, Joel B. Sutherland, John W. Taylor, Samuel F. Vinton, Daniel Wardwell, John G. Watmough, Grattan H. Wheeler, Frederick Whittlesey, Ebenezer Young.

CHAPTER LXXXII.

REDUCTION OF DUTIES.—MR. CLAY'S BILL.

On the 12th of February Mr. Clay asked leave to introduce a bill for the reduction of duties, styled by him a "compromise" measure; and prefaced the question with a speech, of which the following are parts:

"In presenting the modification of the tariff laws which I am now about to submit, I have two great objects in view. My first object looks to the tariff. I am compelled to express the opinion, formed after the most deliberate reflection, and on a full survey of the whole country, that, whether rightfully or wrongfully, the tariff stands in imminent danger. If it should even be preserved during this session, it must fall at the next session. By what circumstances, and through what causes, has arisen the necessity for this change in the policy of our country, I will not pretend now to elucidate. Others there are who may differ from the impressions which my mind has received upon this point. Owing, however, to a variety of concurrent causes, the tariff, as it now exists, is in imminent danger; and if the system can be preserved beyond the next session, it must be by some means not now within the reach of human sagacity. The fall of that policy, sir, would be productive of consequences calamitous indeed. When I look to the variety of interests which are involved, to the number of individuals interested, the amount of capital invested, the value of the buildings erected, and the whole arrangement of the business for the prosecution of the various branches of the manufacturing art which have sprung up under the fostering care of this government, I cannot contemplate any evil equal to the sudden overthrow of all those interests. History can produce no parallel to the extent of the mischief which would be produced by such a disaster. The repeal of the Edict of Nantes itself was nothing in comparison with it. That condemned to exile and brought to ruin a great number of persons. The most respectable portion of the population of France were condemned to exile and ruin by that measure. But in my opinion, sir, the sudden repeal of the tariff policy would bring ruin and destruction on the whole people of this country. There is no evil, in my opinion, equal to the consequences which would result from such a catastrophe.

"I believe the American system to be in the greatest danger; and I believe it can be placed on a better and safer foundation at this session than at the next. I heard, with surprise, my friend from Massachusetts say that nothing had occurred within the last six months to increase its hazard. I entreat him to review that opinion. Is it correct? Is the issue of numerous elections, including that of the highest officer of the government, nothing? Is the explicit recommendation of that officer, in his message at the opening of the session sustained, as he is, by a recent triumphant election, nothing? Is his declaration in his proclamation, that the burdens of the South ought to be relieved, nothing? Is the introduction of the bill in the House of Representatives during this session, sanctioned by the head of the treasury and the administration, prostrating the greater part of the manufactures of the country, nothing? Are the increasing discontents, nothing? Is the tendency of recent events to unite the whole South, nothing? What have we not witnessed in this chamber? Friends of the administration bursting all the ties which seemed indissolubly to unite them to its chief, and, with few exceptions south of the Potomac, opposing, and vehemently opposing, a favorite measure of that administration, which three short months ago they contributed to establish? Let us not deceive ourselves. Now is the time to adjust the question in a manner satisfactory to both parties. Put it off until the next session, and the alternative may, and probably then would be, a speedy and ruinous reduction of the tariff, or a civil war with the entire South.

"It is well known that the majority of the dominant party is adverse to the tariff. There are many honorable exceptions, the senator from New Jersey [Mr. Dickerson], among them. But for the exertions of the other party, the tariff would have been long since sacrificed. Now let us look at the composition of the two branches of Congress at the next session. In this body we lose three friends of the protective policy, without being sure of gaining one. Here, judging from the present appearances, we shall, at the next session, be in the minority. In the House it is notorious that there is a considerable accession to the number of the dominant party. How, then, I ask, is the system to be sustained against numbers, against the whole weight of the administration, against the united South, and against the increased impending danger of civil war?

"I have been represented as the father of this system, and I am charged with an unnatural abandonment of my own offspring. I have

never arrogated to myself any such intimate relation to it. I have, indeed, cherished it with parental fondness, and my affection is undiminished. But in what condition do I find this child? It is in the hands of the Philistines, who would strangle it. I fly to its rescue, to snatch it from their custody, and to place it on a bed of security and repose for nine years, where it may grow and strengthen, and become acceptable to the whole people. I behold a torch about being applied to a favorite edifice, and I would save it, if possible, before it was wrapt in flames, or at least preserve the precious furniture which it contains."

Mr. Clay further advanced another reason for his bill, and which was a wish to separate the tariff from politics and elections—a wish which admitted their connection—and which, being afterwards interpreted by events, was supposed to be the basis of the coalition with Mr. Calhoun; both of them having tried the virtue of the tariff question in elections, and found it unavailing either to friends or foes. Mr. Clay, its champion, could not become President upon its support. Mr. Calhoun, its antagonist, could not become President upon its opposition. To both it was equally desirable, as an unavailable element in elections, and as a stumbling-block to both in future, that it should be withdrawn for some years from the political arena; and Mr. Clay thus expressed himself in relation to that withdrawal:

"*I wish to see the tariff separated from the politics of the country, that business men may go to work in security, with some prospect of stability in our laws, and without every thing being staked on the issue of elections, as it were on the hazards of the die.*"

Mr. Clay then explained the principle of his bill, which was a series of annual reductions of one tenth per cent. on the value of all duties above twenty per cent. for eight successive years; and after that, the reduction of all the remainder above twenty per centum to that rate by two annual reductions of the excess: so as to complete the reduction to twenty per centum on the value of all imported goods on the 30th day of September, 1842; with a total abolition of duties on about one hundred articles after that time; and with a proviso in favor of the right of Congress, in the event of war with any foreign power to impose such duties as might be necessary to prosecute the war. And this was called a "*compromise*," although there was no stipulation for the permanency of the reduced, and of the abolished duties; and no such stipulation could be made to bind future Congresses; and the only equivalent which the South received from the party of protection, was the stipulated surrender of their principle in the clause which provided that after the said 30th of September, 1842, "*duties should only be laid for raising such revenue as might be necessary for an economical administration of the government;*" an attempt to bind future Congresses, the value of which was seen before the time was out. Mr. Clay proceeded to touch the tender parts of his plan—the number of years the protective policy had to run, and the guaranties for its abandonment at the end of the stipulated protection. On these points he said:

"Viewing it in this light, it appeared that there were eight years and a half, and nine years and a half, taking the ultimate time, which would be an efficient protection; the remaining duties would be withdrawn by a biennial reduction. The protective principle must be said to be, in some measure, relinquished at the end of eight years and a half. This period could not appear unreasonable, and he thought that no member of the Senate, or any portion of the country, ought to make the slightest objection. It now remained for him to consider the other objection—the want of a guaranty to there being an ulterior continuance of the duties imposed by the bill, on the expiration of the term which it prescribes. The best guaranties would be found in the circumstances under which the measure would be passed. If it were passed by common consent; if it were passed with the assent of a portion, a considerable portion, of those who had hitherto directly supported this system, and by a considerable portion of those who opposed it; if they declared their satisfaction with the measure, he had no doubt the rate of duties guarantied would be continued after the expiration of the term, if the country continued at peace."

Here was a stipulation to continue the protective principle for nine years and a half, and the bill contained no stipulation to abandon it at that time, and consequently no guaranty that it would be abandoned; and certainly the guaranty would have been void if stipulated, as it is not in the power of one Congress to abridge by law the constitutional power of its successors. Mr. Clay, therefore, had recourse to moral guaranties; and found them good, and best, in the circumstances in which the bill would be passed, and the common consent with which it

was expected to be done—a calculation which found its value, as to the "common consent," before the bill was passed, as to its binding force before the time fixed for its efficacy to begin.

Mr. Forsyth, of Georgia, replied to Mr. Clay, and said:

"The avowed object of the bill would meet with universal approbation. It was a project to harmonize the people, and it could have come from no better source than from the gentleman from Kentucky: for to no one were we more indebted than to him for the discord and discontent which agitate us. But a few months ago it was in the power of the gentleman, and those with whom he acted, to settle this question at once and for ever. The opportunity was not seized, but he hoped it was not passed. In the project now offered, he could not see the elements of success. The time was not auspicious. But fourteen days remained to the session; and we had better wait the action of the House on the bill before them, than by taking up this new measure here, produce a cessation of their action. Was there not danger that the fourteen days would be exhausted in useless debate? Why, twenty men, with a sufficiency of breath (for words they would not want), could annihilate the bill, though a majority in both Houses were in favor of it. He objected, too, that the bill was a violation of the constitution, because the Senate had no power to raise revenue. Two years ago, the same senator made a proposition, which was rejected on this very ground. The offer, however, would not be useless; it would be attended with all the advantages which could follow its discussion here. We shall see it, and take it into consideration as the offer of the manufacturers. The other party, as we are called, will view it as a scheme of diplomacy; not as their *ultimatum*, but as their first offer. But the bargain was all on one side. After they are defeated, and can no longer sustain a conflict, they come to make the best bargain they can. The senator from Kentucky says, the tariff is in danger; aye, sir, it is at its last gasp. It has received the immedicable wound; no hellebore can cure it. He considered the confession of the gentleman to be of immense importance. Yes, sir, the whole feeling of the country is opposed to the high protective system. The wily serpent that crept into our Eden has been touched by the spear of Ithuriel. The senator is anxious to prevent the ruin which a sudden abolition of the system will produce. No one desires to inflict ruin upon the manufacturers; but suppose the Southern people, having the power to control the subject, should totally and suddenly abolish the system; what right would those have to complain who had combined to oppress the South? What has the tariff led us to already? From one end of the country to the other, it has produced evils which are worse than a thousand tariffs. The necessity of appealing now to fraternal feeling shows that that feeling is not sleeping, but nearly extinguished. He opposed the introduction of the bill as a revenue measure, and upon it demanded the yeas and nays: which were ordered."

The practical, clear-headed, straightforward Gen. Smith, of Maryland, put his finger at once upon the fallacy and insecurity of the whole scheme, and used a word, the point and application of which was more visible afterwards than at the time it was uttered. He said:

"That the bill was no cure at all for the evils complained of by the South. They wished to try the constitutionality of protecting duties. In this bill there was nothing but protection, from beginning to end. We had been told that if the bill passed with common consent, the system established by it would not be touched. But he had once been *cheated* in that way, and would not be *cheated* again. In 1816 it was said the manufacturers would be satisfied with the protection afforded by the bill of that year; but in a few years after they came and insisted for more, and got more. After the first four years, an attempt would be made to repeal all the balance of this bill. He would go no further than four years in prospective reduction. The reduction was on some articles too great."

He spoke history, except in the time. The manufacturers retained the benefits of the bill to the end of the protection which it gave them, and then re-established the protective system in more amplitude than ever.

"Mr. Calhoun rose and said, he would make but one or two observations. Entirely approving of the object for which this bill was introduced, he should give his vote in favor of the motion for leave to introduce it. He who loved the Union must desire to see this agitating question brought to a termination. Until it should be terminated, we could not expect the restoration of peace or harmony, or a sound condition of things, throughout the country. He believed that to the unhappy divisions which had kept the Northern and Southern States apart from each other, the present entirely degraded condition of the country (for entirely degraded he believed it to be) was solely attributable. The general principles of this bill received his approbation. He believed that if the present difficulties were to be adjusted, they must be adjusted on the principles embraced in the bill, of fixing ad valorem duties, except in the few cases in the bill to which specific duties were assigned. He said that it had been his fate to occupy a position as hostile as any one could, in reference to the protecting policy; but, if it depended on his will, he would not give his vote for the

prostration of the manufacturing interest. A very large capital had been invested in manufactures, which had been of great service to the country; and he would never give his vote to suddenly withdraw all those duties by which that capital was sustained in the channel into which it had been directed. But he would only vote for the ad valorem system of duties, which he deemed the most beneficial and the most equitable. At this time, he did not rise to go into a consideration of any of the details of this bill, as such a course would be premature, and contrary to the practice of the Senate. There were some of the provisions which had his entire approbation, and there were some to which he objected. But he looked upon these minor points of difference as points in the settlement of which no difficulty would occur, when gentlemen meet together in that spirit of mutual compromise which, he doubted not, would be brought into their deliberations, without at all yielding the constitutional question as to the right of protection."

This union of Mr. Calhoun and Mr. Clay in the belief of the harmony and brotherly affection which this bill would produce, professing as it did, and bearing on its face the termination of the American system, afforded a strong instance of the fallibility of political opinions. It was only six months before that the dissolution of the Union would be the effect, in the opinion of one of them, of the continuance of the American system—and of its abandonment in the opinion of the other. Now, both agreed that the bill which professed to destroy it would restore peace and harmony to a distracted country. How far Mr. Clay then saw the preservation, and not the destruction, of the American system in the compromise he was making, may be judged by what he said two weeks later, when he declared that he looked forward to a re-action which would restore the protective system at the end of the time.

The first news of Mr. Clay's bill was heard with dismay by the manufacturers. Niles' Register, the most authentic organ and devoted advocate of that class, heralded it thus: "*Mr. Clay's new tariff project will be received like a crash of thunder in the winter season, and some will hardly trust the evidence of their senses on a first examination of it—so radical and sudden is the change of policy proposed because of a combination of circumstances which, in the judgment of Mr. Clay, has rendered such a change necessary. It may be that our favorite systems are all to be destroyed. If so the majority determine—so be it.*" The manufacturers flocked in crowds to Washington City—leaving home to stop the bill—arriving at Washington to promote it. Those practical men soon saw that they had gained a reprieve of nine years and a half in the benefits of protection, with a certainty of the re-establishment of the system at the end of that time, from the revulsion which would be made in the revenue—in the abrupt plunge at the end of that time in the scale of duties from a high rate to an ad valorem of twenty per centum; and that leaving one hundred articles free. This nine years and a half reprieve, with the certain chance for the revulsion, they found to be a good escape from the possible passage of Mr. Verplank's bill, or its equivalent, at that session; and its certain passage, if it failed then, at the ensuing session of the new Congress. They found the protective system dead without this reprieve, and now received as a deliverance what had been viewed as a sentence of execution; and having helped the bill through, they went home rejoicing, and more devoted to Mr. Clay than ever.

Mr. Webster had not been consulted, in the formation of this bill, and was strongly opposed to it, as well as naturally dissatisfied at the neglect with which he had been treated. As the ablest champion of the tariff, and the representative of the chief seat of manufactures, he would naturally have been consulted, and made a party, and a leading one, in any scheme of tariff adjustment; on the contrary, the whole concoction of the bill between Mr. Clay and Mr. Calhoun had been entirely concealed from him. Symptoms of discontent appeared, at times, in their speeches; and, on the night of the 23d, some sharp words passed—composed the next day by their friends: but it was a strange idea of a "compromise," from which the main party was to be excluded in its formation, and bound in its conclusion. And Mr. Webster took an immediate opportunity to show that he had not been consulted, and would not be bound by the arrangement that had been made. He said:

"It is impossible that this proposition of the honorable member from Kentucky should not excite in the country a very strong sensation; and, in the relation in which I stand to the subject, I am anxious, at an early moment, to say, that, as far as I understand the bill, from the gentleman's statement of it, there are principles in it to which I do not at present see how I can ever

concur. If I understand the plan, the result of it will be a well-understood surrender of the power of discrimination, or a stipulation not to use that power, in the laying duties on imports, after the eight or nine years have expired. This appears to me to be matter of great moment. I hesitate to be a party to any such stipulation. The honorable member admits, that though there will be no positive surrender of the power, there will be a stipulation not to exercise it; a treaty of peace and amity, as he says, which no American statesman can, hereafter, stand up to violate. For one, sir, I am not ready to enter into the treaty. I propose, so far as depends on me, to leave all our successors in Congress as free to act as we are ourselves.

"The honorable member from Kentucky says the tariff is in imminent danger; that, if not destroyed this session, it cannot hope to survive the next. This may be so, sir. This may be so. But, if it be so, it is because the American people will not sanction the tariff; and, if they will not, why, then, sir, it cannot be sustained at all. I am not quite so despairing as the honorable member seems to be. I know nothing which has happened, within the last six or eight months, changing so materially the prospects of the tariff. I do not despair of the success of an appeal to the American people, to take a just care of their own interest, and not to sacrifice those vast interests which have grown up under the laws of Congress."

There was a significant intimation in these few remarks, that Mr. Webster had not been consulted in the preparation of this bill. He shows that he had no knowledge of it, except from Mr. Clay's statement of its contents, on the floor, for it had not then been read; and the statement made by Mr. Clay was his only means of understanding it. This is the only public intimation which he gave of that exclusion of himself from all knowledge of what Mr. Clay and Mr. Calhoun were doing; but, on the Sunday after the sharp words between him and Mr. Clay, the fact was fully communicated to me, by a mutual friend, and as an injurious exclusion which Mr. Webster naturally and sensibly felt. On the next day, he delivered his opinions of the bill, in an unusually formal manner—in a set of resolutions, instead of a speech—thus:

"*Resolved*, That the annual revenues of the country ought not to be allowed to exceed a just estimate of the wants of the government; and that, as soon as it shall be ascertained, with reasonable certainty, that the rates of duties on imports, as established by the act of July, 1832, will yield an excess over those wants, provision ought to be made for their reduction; and that, in making this reduction, just regard should be had to the various interests and opinions of different parts of the country, so as most effectually to preserve the integrity and harmony of the Union, and to provide for the common defence, and promote the general welfare of the whole.

"But, whereas it is certain that the diminution of the rates of duties on some articles would increase, instead of reducing, the aggregate amount of revenue on such articles; and whereas, in regard to such articles as it has been the policy of the country to protect, a slight reduction on one might produce essential injury, and even distress, to large classes of the community, while another might bear a larger reduction without any such consequences; and whereas, also, there are many articles, the duties on which might be reduced, or altogether abolished, without producing any other effect than the reduction of revenue: Therefore,

"*Resolved*, That, in reducing the rates of duties imposed on imports, by the act of the 14th of July aforesaid, it is not wise or judicious to proceed by way of an equal reduction per centum on all articles; but that, as well the amount as the time of reduction ought to be fixed, in respect to the several articles, distinctly, having due regard, in each case, to the questions whether the proposed reduction will affect revenue alone, or how far it will operate injuriously on those domestic manufactures hitherto protected; especially such as are essential in time of war, and such, also, as have been established on the faith of existing laws; and, above all, how far such proposed reduction will affect the rates of wages and the earnings of American manual labor.

"*Resolved*, That it is unwise and injudicious, in regulating imposts, to adopt a plan, hitherto equally unknown in the history of this government, and in the practice of all enlightened nations, which shall, either immediately or prospectively, reject all discrimination on articles to be taxed, whether they be articles of necessity or of luxury, of general consumption or of limited consumption; and whether they be or be not such as are manufactured and produced at home, and which shall confine all duties to one equal rate per centum on all articles.

"*Resolved*, That, since the people of the United States have deprived the State governments of all power of fostering manufactures, however indispensable in peace or in war, or however important to national independence, by commercial regulations, or by laying duties on imports, and have transferred the whole authority to make such regulations, and to lay such duties, to the Congress of the United States, Congress cannot surrender or abandon such power, compatibly with its constitutional duty; and, therefore,

"*Resolved*, That no law ought to be passed on the subject of imposts, containing any stipulation, express or implied, or giving any pledge or assurance, direct or indirect, which shall tend to restrain Congress from the full exercise, at all

times hereafter, of all its constitutional powers, in giving reasonable protection to American industry, countervailing the policy of foreign nations, and maintaining the substantial independence of the United States."

These resolutions brought the sentiments of Mr. Webster, on the tariff and federal revenue, very nearly to the standard recommended by General Jackson, in his annual message; which was a limitation of the revenue to the wants of the government, with incidental protection to essential articles; and this approximation of policy, with that which had already taken place on the doctrine of nullification and its measures, and his present support of the "Force Bill," may have occasioned the exclusion of Mr. Webster from all knowledge of this "compromise." Certain it is, that, with these sentiments on the subject of the tariff and the revenue, and with the decision of the people, in their late elections against the American system, that Mr. Webster and his friends would have acted with the friends of General Jackson and the democratic party, in the ensuing Congress, in reducing the duties in a way to be satisfactory to every reasonable interest; and, above all, to be stable; and to free the country from the agitation of the tariff question, the manufacturers from uncertainty, and the revenue from fluctuations which alternately gave overflowing and empty treasuries. It was a consummation devoutly to be wished; and frustrated by the intervention of the delusive "compromise," concocted out of doors, and in conclave by two senators; and to be carried through Congress by their joint adherents, and by the fears of some and the interests of others.

Mr. Wright, of New-York, saw objections to the bill, which would be insurmountable in other circumstances. He proceeded to state these objections, and the reason which would outweigh them in his mind:

"He thought the reduction too slow for the first eight years, and vastly too rapid afterwards. Again, he objected to the inequality of the rule of reduction which had been adopted. It will be seen, at once, that on articles paying one hundred per cent. duty, the reduction is dangerously rapid. There was uniformity in the rule adopted by the bill, as regards its operation on existing laws. The first object of the bill was to effect a compromise between the conflicting views of the friends and the opponents of protection. It purports to extend relief to Southern interest; and yet it enhances the duty on one of the most material articles of Southern consumption—negro cloths. Again, while it increases this duty, it imposes no corresponding duty on the raw material from which the fabric is made.

"Another objection arose from his mature conviction that the principle of home valuation was absurd, impracticable, and of very unequal operation. The reduction on some articles of prime necessity—iron, for example—was so great and so rapid, that he was perfectly satisfied that it would stop all further production before the expiration of eight years. The principle of discrimination was one of the points introduced into the discussion; and, as to this, he would say that the bill did not recognize, after a limited period, the power of Congress to afford protection by discriminating duties. It provides protection for a certain length of time, but does not ultimately recognize the principle of protection. The bill proposes ultimately to reduce all articles which pay duty to the same rate of duty. This principle of revenue was entirely unknown to our laws, and, in his opinion, was an unwarrantable innovation. Gentlemen advocating the principle and policy of free trade admit the power of Congress to lay and collect such duties as are necessary for the purpose of revenue; and to that extent they will incidentally afford protection to manufactures. He would, upon all occasions, contend that no more money should be raised from duties on imports than the government needs; and this principle he wished now to state in plain terms. He adverted to the proceedings of the Free Trade Convention to show that, by a large majority, (120 to 7,) they recognized the constitutional power of Congress to afford incidental protection to domestic manufactures. They expressly agreed that the principle of discrimination was in consonance with the constitution.

"Still another objection he had to the bill. It proposed on its face, and, as he thought, directly, to restrict the action of our successors. We had no power, he contended, to bind our successors. We might legislate prospectively, and a future Congress could stop the course of this prospective legislation. He had, however, no alternative but to vote for the bill, with all its defects, because it contained some provisions which the state of the country rendered indispensably necessary."

He then stated the reason which would induce him to vote for the bill notwithstanding these objections. It was found in the attitude of South Carolina, and in the extreme desire which he had to remove all cause of discontent in that State, and to enable her to return to the state of feeling which belonged to an affectionate member of the Union. For that reason he would do what was satisfactory to her, though not agreeable to himself.

While the bill was still depending before the Senate, the bill itself for which the leave

was being asked, made its appearance at the door of the chamber, with a right to enter it, in the shape of an act passed by the House, and sent to the Senate for concurrence. This was a new feature in the game, and occasioned the Senate bill to be immediately dropped, and the House bill put in its place; and which, being quickly put to the vote, was passed, 29 to 16.

"YEAS.—Messrs. Bell, Bibb, Black, Calhoun, Chambers, Clay, Clayton, Ewing, Foot, Forsyth, Frelinghuysen, Grundy, Hill, Holmes, Johnston, King, Mangum, Miller, Moore, Maudain, Poindexter, Rives, Robinson, Sprague, Tomlinson, Tyler, Waggaman, White, Wright.

"NAYS.—Messrs. Benton, Buckner, Dallas, Dickerson, Dudley, Hendricks, Knight, Prentiss, Robbins, Ruggles, Seymour, Silsbee, Smith, Tipton, Webster, Wilkins."

And the bill was then called a "compromise," which the dictionaries define to be an "agreement without the intervention of arbitrators;" and so called, it was immediately proclaimed to be sacred and inviolable, as founded on mutual consent, although the only share which the manufacturing States (Pennsylvania, New Jersey, Maryland, Massachusetts, Rhode Island, Vermont) had in making this "compromise," was to see it sprung upon them without notice, executed upon them as a surprise, and forced upon them by anti-tariff votes, against the strenuous resistance of their senators and representatives in both Houses of Congress.

An incident which attended the discussion of this bill shows the manner in which great measures—especially a bill of many particulars, like the tariff, which affords an opportunity of gratifying small interests—may be worked through a legislative body, even the Senate of the United States, by other reasons than those derived from its merits. The case was this: There were a few small manufactories in Connecticut and some other New England States, of a coarse cloth called, not Kendall green, but Kendall cotton—quite antithetically, as the article was made wholly of wool—of which much was also imported. As it was an article exclusively for the laboring population, the tariff of the preceding session made it virtually free, imposing only a duty of five per centum on the value of the cloth and the same on the wool of which it was made. Now this article was put up in this "compromise" bill which was to reduce duties, to fifty per centum, aggravated by an arbitrary minimum valuation, and by the legerdemain of retaining the five per centum duty on the foreign wool which they used, and which was equivalent to making it free, and reduced to that low rate to harmonize the duty on the raw material and the cloth. General Smith, of Maryland, moved to strike out this duty, so flagrantly in contrast to the professed objects of the bill, and in fraud of the wool duty; and that motion brought out the reason why it was put there—which was, that it was necessary to secure the passage of the bill. Mr. Foot, of Connecticut, said: "*This was an important feature of the bill, in which his constituents had a great interest. Gentlemen from the South had agreed to it; and they were competent to guard their own interest.*" Mr. Clay said: "*The provision proposed to be stricken out was an essential part of the compromise, which, if struck out, would destroy the whole.*" Mr. Bell of New Hampshire, said: "*The passage of the bill depended upon it. If struck out, he should feel himself compelled to vote against the bill.*" So it was admitted by those who knew what they said, that this item had been put into the bill while in a state of concoction out of doors, and as a *douceur* to conciliate the votes which were to pass it. Thereupon Mr. Benton stood up, and

"Animadverted on the reason which was alleged for this extraordinary augmentation of duties in a bill which was to reduce duties. The reason was candidly expressed on this floor. There were a few small manufactories of these woollens in Connecticut; and unless these manufactories be protected by an increase of duties, certain members avow their determination to vote against the whole bill! This is the secret—no! not a secret, for it is proclaimed. It was a secret, but is not now. Two or three little factories in Connecticut must be protected; and that by imposing an annual tax upon the wearers of these coarse woollens of four or five times the value of the fee-simple estate of the factories. Better far, as a point of economy and justice, to purchase them and burn them. The whole American system is to be given up in the year 1842; and why impose an annual tax of near five hundred thousand dollars, upon the laboring community, to prolong, for a few years, a few small branches of that system, when the whole bill has the axe to the root, and nods to its fall? But, said Mr. B., these manufactories of coarse woollens, to be protected by this bill, are not even American; they are rather Asiatic establishments in America; for they get their wool from Asia, and not from America. The impor-

tation of this wool is one million two hundred and fifty thousand pounds weight; it comes chiefly from Smyrna, and costs less than eight cents a pound. It was made free of duty at the last session of Congress, as an equivalent to these very manufactories for the reduction of the duty on coarse woollens to five per cent. The two measures went together, and were, each, a consideration for the other. Before that time, and by the act of 1828, this coarse wool was heavily dutied for the benefit of the home wool growers. It was subjected to a double duty, one of four cents on the pound, and the other of fifty per cent. on the value. As a measure of compromise, this double duty was abolished at the last session. The wool for these factories was admitted duty free, and, as an equivalent to the community, the woollens made out of the corresponding kind of wool were admitted at a nominal duty. It was a bargain, entered into in open Congress, and sealed with all the forms of law. Now, in six months after the bargain was made, it is to be broken. The manufacturers are to have the duty on woollens run up to fifty per cent. for protection, and are still to receive the foreign wool free of duty. In plain English, they are to retain the pay which was given them for reducing the duties on these coarse woollens, and they are to have the duties restored.

"He said it was contrary to the whole tenor and policy of the bill, and presented the strange contradiction of multiplying duties tenfold, upon an article of prime necessity, used exclusively by the laboring part of the community, while reducing duties, or abolishing them *in toto*, upon every article used by the rich and luxurious. Silks were to be free; cambrics and fine linens were to be free; muslins, and casimeres, and broad cloths were to be reduced; but the coarse woollens, worn by the laborers of every color and every occupation, of every sex and of every age, bond or free—these coarse woollens, necessary to shelter the exposed laborer from cold and damp, are to be put up tenfold in point of tax, and the cost of procuring them doubled to the wearer.

"The American value, and not the foreign cost, will be the basis of computation for the twenty per cent. The difference, when all is fair, is about thirty-five per cent. in the value; so that an importation of coarse woollens, costing one million in Europe, and now to pay five per cent. on that cost, will be valued, if all is fair, at one million three hundred and fifty thousand dollars; and the twenty per cent. will be calculated on that sum, and will give two hundred and seventy thousand dollars, instead of two hundred thousand dollars, for the quantum of the tax. It will be near sixfold, instead of fourfold, and that if all is fair; but if there are gross errors or gross frauds in the valuation, as every human being knows there must be, the real tax may be far above sixfold. On this very floor, and in this very debate, we hear it computed, by way of recommending this bill to the manufacturers, that the twenty per cent. on the statute book will exceed thirty in the custom-house.

"Mr. B. took a view of the circumstances which had attended the duties on these coarse woollens since he had been in Congress. Every act had discriminated in favor of these goods, because they were used by the poor and the laborer. The act of 1824 fixed the duties upon them at a rate one third less than on other woollens; the act of 1828 fixed it at upwards of one half less; the act of 1832 fixed it nine tenths less. All these discriminations in favor of coarse woollens were made upon the avowed principle of favoring the laborers, bond and free,—the slave which works the field for his master, the mariner, the miner, the steamboat hand, the worker in stone and wood, and every out-door occupation. It was intended by the framers of all these acts, and especially by the supporters of the act of 1832, that this class of our population, so meritorious from their daily labor, so much overlooked in the operations of the government, because of their little weight in the political scale, should at least receive one boon from Congress—they should receive their working clothes free of tax. This was the intention of successive Congresses; it was the performance of this Congress in its act of the last session; and now, in six short months since this boon was granted, before the act had gone into effect, the very week before the act was to go into effect, the boon so lately granted, is to be snatched away, and the day laborer taxed higher than ever; taxed fifty per cent. upon his working clothes! while gentlemen and ladies are to have silks and cambrics, and fine linen, free of any tax at all!

"In allusion to the alleged competency of the South to guard its own interest, as averred by Mr. Foot, Mr. Benton said that was a species of ability not confined to the South, but existent also in the North—whether indigenous or exotic he could not say—but certainly existent there, at least in some of the small States; and active when duties were to be raised on Kendal cotton cloth, and the wool of which it was made to remain free."

The motion of General Smith was rejected, of course, and by the same vote which passed the bill, no one of those giving way an inch of ground in the House who had promised out of doors to stand by the bill. Another incident to which the discussion of this bill gave rise, and the memory of which is necessary to the understanding of the times, was the character of "*protection*" which Mr. Clay openly claimed for it; and the peremptory manner in which he and his friends vindicated that claim in open Senate, and to the face of Mr. Calhoun. The circumstances were these: Mr. Forsyth objected to the leave asked by Mr. Clay to introduce his bill, because it was a revenue bill, the origi-

nation of which under the constitution exclusively belonged to the House of Representatives, the immediate representative of the people. And this gave rise to an episodical debate, in which Mr. Clay said: "*The main object of the bill is not revenue, but protection.*"—In answer to several senators who said the bill was an abandonment of the protective principle, Mr. Clay said: "*The language of the bill authorized no such construction, and that no one would be justified in inferring that there was to be an abandonment of the system of protection.*"—And Mr. Clayton, of Delaware, a supporter of the bill, said: "*The government cannot be kept together if the principle of protection were to be discarded in our policy; and declared that he would pause before he surrendered that principle, even to save the Union.*"—Mr. Webster said: "*The bill is brought forward by the distinguished senator from Kentucky, who professes to have renounced none of his former opinions as to the constitutionality and expediency of protection.*"—And Mr. Clay said further: "*The bill assumes, as a basis, adequate protection for nine years, and less (protection) beyond that term. The friends of protection say to their opponents, we are willing to take a lease of nine years, with the long chapter of accidents beyond that period, including the chance of war, the restoration of concord, and along with it a conviction common to all, of the utility of protection; and in consideration of it, if, in* 1842 *none of these contingencies shall have been realized, we are willing to submit, as long as Congress may think proper, with a maximum of twenty per centum,*" &c.—"*He avowed his object in framing the bill was to secure that protection to manufactures which every one foresaw must otherwise soon be swept away.*" So that the bill was declared *to be one of protection* (*and upon sufficient data*), upon a lease of nine years and a half, with many chances for converting the lease into a fee simple at the end of its run; which, in fact, was done; but with such excess of protection as to produce a revulsion, and another tariff catastrophe in 1846. The continuance of protection was claimed in argument by Mr. Clay and his friends throughout the discussion, but here it was made a point on which the fate of the bill depended, and on which enough of its friends to defeat it declared they would not support it except as a protective measure. Mr. Calhoun in other parts of the debate had declared the bill to be an abandonment of protection; but at this critical point, when such a denial from him would have been the instant death warrant of the bill, he said nothing. His desire for its passage must have been overpowering when he could hear such declarations without repeating his denial.

On the main point, that of the constitutionality of originating the bill in the Senate, Mr. Webster spoke the law of Parliament when he said:

"It was purely a question of privilege, and the decision of it belonged alone to the other House. The Senate, by the constitution, could not originate bills for raising revenue. It was of no consequence whether the rate of duty were increased or decreased; if it was a money bill it belonged to the House to originate it. In the House there was a Committee of Ways and Means organized expressly for such objects. There was no such committee in the Senate. The constitutional provision was taken from the practice of the British Parliament, whose usages were well known to the framers of the constitution, with the modification that the Senate might alter and amend money bills, which was denied by the House of Commons to the Lords. This subject belongs exclusively to the House of Representatives. The attempt to evade the question, by contending that the present bill was intended for protection and not for revenue, afforded no relief, for it was protection by means of revenue. It was not the less a money bill from its object being protection. After 1842 this bill would raise the revenue, or it would not be raised by existing laws. He was altogether opposed to the provisions of this bill; but this objection was one which belonged to the House of Representatives."

Another incident which illustrates the vice and tyranny of this outside concoction of measures between chiefs, to be supported in the House by their adherents as they fix it, occurred in the progress of this bill. Mr. Benton, perceiving that there was no corresponding reduction of drawback provided for on the exportation of the manufactured article made out of an imported material on which duty was to be reduced, and supposing it to have been an oversight in the framing of the bill, moved an amendment to that effect; and meeting resistance, stood up, and said:

"His motion did not extend to the general system of drawbacks, but only to those special

cases in which the exporter was authorized to draw from the treasury the amount of money which he had paid into it on the importation of the materials which he had manufactured. The amount of drawback to be allowed in every case had been adjusted to the amount of duty paid, and as all these duties were to be periodically reduced by the bill, it would follow, as a regular consequence, that the drawback should undergo equal reductions at the same time. Mr. B. would illustrate his motion by stating a single case—the case of refined sugar. The drawback payable on this sugar was five cents a pound. These five cents rested upon a duty of three cents, now payable on the importation of foreign brown sugar. It was ascertained that it required nearly two pounds of brown sugar to make a pound of refined sugar, and five cents was held to be the amount of duty paid on the quantity of brown sugar which made the pound of refined sugar. It was simply a reimbursement of what he had paid. By this bill the duty of foreign brown sugar will be reduced immediately to two and a half cents a pound, and afterwards will be periodically reduced until the year 1842, when it will be but six-tenths of a cent, very little more than one-sixth of the duty when five cents the pound were allowed for a drawback. Now, if the drawback is not reduced in proportion to the reduction of the duty on the raw sugar, two very injurious consequences will result to the public: first, that a large sum of money will be annually taken out of the treasury in gratuitous bounties to sugar refiners; and next, that the consumers of refined sugar will have to pay more for American refined sugar than foreigners will; for the refiners getting a bounty of five cents a pound on all that is exported, will export all, unless the American consumer will pay the bounty also. Mr. B. could not undertake to say how much money would be drawn from the treasury, as a mere bounty, if this amendment did not prevail. It must, however, be great. The drawback was now frequently a hundred thousand dollars a year, and great frauds were committed to obtain it. Frauds to the amount of forty thousand dollars a year had been detected, and this while the inducement was small and inconsiderable; but, as fast as that inducement swells from year to year, the temptation to commit frauds must increase; and the amount drawn by fraud, added to that drawn by the letter of the law, must be enormous. Mr. B. did not think it necessary to illustrate his motion by further examples, but said there were other cases which would be as strong as that of refined sugar; and justice to the public required all to be checked at once, by adopting the amendment he had offered."

This amendment was lost, although its necessity was self-evident, and supported by Mr. Calhoun's vote; but Mr. Clay was inexorable, and would allow of no amendment which was not offered by friends of the bill: a qualification which usually attends all this class of outside legislation. In the end, I saw the amendment adopted, as it regarded refined sugars, after it began to take hundreds of thousands per annum from the treasury, and was hastening on to millions per annum. The vote on its rejection in the compromise bill, was:

"YEAS.—Messrs. Benton, Buckner, Calhoun, Dallas, Dickerson, Dudley, Forsyth, Johnson, Kane, King, Rives, Robinson, Seymour, Tomlinson, Webster, White, Wilkins, Wright.—18.

"NAYS.—Messrs. Bell, Bibb, Black, Clay, Clayton, Ewing, Foot, Grundy, Hendricks, Holmes, Knight, Mangum, Miller, Moore, Naudain, Poindexter, Prentiss, Robbins, Silsbee, Smith, Sprague, Tipton, Troup, Tyler.—24."

But the protective feature of the bill, which sat hardest upon the Southern members, and, at one time, seemed to put an end to the "compromise," was a proposition, by Mr. Clay, to substitute home valuations for foreign on imported goods; and on which home valuation, the duty was to be computed. This was no part of the bill concocted by Mr. Clay and Mr. Calhoun; and, when offered, evidently took the latter gentleman by surprise, who pronounced it unconstitutional, unequal, and unjust; averred the objections to the proposition to be insurmountable; and declared that, if adopted, would compel him to vote against the whole bill. On the other hand, Mr. Clayton and others, declared the adoption of the amendment to be indispensable; and boldly made known their determination to sacrifice the bill, if it was not adopted. A brief and sharp debate took place, in the course of which Mr. Calhoun declared his opinions to remain unaltered, and Mr. Clayton moved to lay the bill upon the table. Its fate seemed, at that time, to be sealed; and certainly would have been, if the vote on its passage had then been taken; but an adjournment was moved, and carried; and, on the next day, and after further debate, and the question on Mr. Clay's proposition about to be taken, Mr. Calhoun declared that it had become necessary for him to determine whether he would vote for or against it; said he would vote for it, otherwise the bill would be lost. He then called upon the reporters in the gallery to notice well what he said, as he intended his declaration to be part of the proceedings: and that he voted upon the conditions: first, that no valuation should be

adopted, which would make the duties unequal in different parts; and, secondly, that the duties themselves should not become an element in the valuation. The practical sense of General Smith immediately exposed the futility of these conditions, which were looked upon, on all sides, as a mere salvo for an inevitable vote, extorted from him by the exigencies of his position; and several senators reminded him that his intentions and motives could have no effect upon the law, which would be executed according to its own words. The following is the debate on this point, very curious in itself, even in the outside view it gives of the manner of affecting great national legislation; and much more so in the inside view of the manner of passing this particular measure, so lauded in its day; and to understand which, the outside view must first be seen. It appears thus, in the prepared debates:

"Mr. Clay now rose to propose the amendment, of which he had previously given notice. The object was, that, after the period prescribed by the bill, all duties should thereafter be assessed on a valuation made at the port in which the goods are first imported, and under 'such regulations as may be prescribed by law.' Mr. C said it would be seen, by this amendment, that, in place of having a foreign valuation, it was intended to have a home one. It was believed by the friends of the protective system, that such a regulation was necessary. It was believed by many of the friends of the system, that, after the period of nine and a half years, the most of our manufactures will be sufficiently grown to be able to support themselves under a duty of twenty per cent., if properly laid; but that, under a system of foreign valuation, such would not be the case. They say that it would be more detrimental to their interests than the lowest scale of duties that could be imposed; and you propose to fix a standard of duties. They are willing to take you at your word, provided you regulate this in a way to do them justice.

"Mr. Smith opposed the amendment, on the ground that it would be an increase of duties; that it had been tried before; that it would be impracticable, unequal, unjust, and productive of confusion, inasmuch as imported goods were constantly varying in value, and were well known to be, at all times, cheaper in New-York than in the commercial cities south of it. This would have the effect of drawing all the trade of the United States to New-York.

"Mr. Clay said he did not think it expedient, in deciding this question, to go forward five or six years, and make that an obstacle to the passage of a great national measure, which is not to go into operation until after that period. The honorable senator from Maryland said that the measure would be impracticable. Well, sir, if so, it will not be adopted. We do not adopt it now, said Mr. C.; we only adopt the principle, leaving it to future legislation to adjust the details. Besides, it would be the restoration of an ancient principle, known since the foundation of the government. It was but at the last session that the discriminating duty on goods coming from this side, and beyond the Cape of Good Hope, ten per cent. on one, and twenty per cent. on the other, was repealed. On what principle was it, said he, that this discrimination ever prevailed? On the principle of the home value. Were it not for the fraudulent invoices which every gentleman in this country was familiar with, he would not urge the amendment; but it was to detect and prevent these frauds that he looked upon the insertion of the clause as essentially necessary.

"Mr. Smith replied that he had not said that the measure was impracticable. He only intended to say that it would be inconvenient and unjust. Neither did he say that it would be adopted by a future Congress; but he said, if the principle was adopted now, it would be an entering wedge that might lead to the adoption of the measure. We all recollect, said Mr. S., that appropriations were made for surveys for internal improvements; and that these operated as entering wedges, and led to appropriations for roads and canals. The adoption of the prinple contended for, by the senator from Kentucky, would not, in his (Mr. S.'s) opinion, prevent frauds in the invoices. That very principle was the foundation of all the frauds on the revenue of France and Spain, where the duties were assessed according to the value of the goods in the ports where entered. He again said that the effect of the amendment would be to draw the principal commerce of the country to the great city of New-York, where goods were cheaper.

"Mr. Forsyth understood, from what had fallen from the senator from Kentucky, that this was a vital question, and on it depended the success of this measure of conciliation and compromise, which was said to settle the distracted condition of the country. In one respect, it was said to be a vital question; and the next was, it was useful; and a strange contradiction followed: that the fate of this measure, to unite the jarrings of brother with brother, depended on the adoption of a principle which might or might not be adopted. He considered the amendment wrong in principle, because it would be both unequal and unjust in its operation, and because it would raise the revenue: as the duties would be assessed, not only on the value of the goods at the place whence imported, but on their value at the place of importation. He would, however, vote for the bill, even if the amendment were incorporated in it, provided he had the assurances, from the proper quarter, that it would effect the conciliation and compromise it was intended for.

"Mr. Clay had brought forward this measure, with the hope that, in the course of its discussion, it would ultimately assume such a shape

as to reconcile all parties to its adoption, and tend to end the agitation of this unsettled question. If there be any member of this Congress (Mr. C. said), who says that he will take this bill now for as much as it is worth, and that he will, at the next Congress, again open the question, for the purpose of getting a better bill, of bringing down the tariff to a lower standard, without considering it as a final measure of compromise and conciliation, calculated also to give stability to a man of business, the bill, in his eyes, would lose all its value, and he should be constrained to vote against it.

"It was for the sake of conciliation, of nine years of peace, to give tranquility to a disturbed and agitated country, that he had, even at this late period of the session, introduced this measure, which, his respect for the other branch of the legislature, now sitting in that building, and who had a measure, looking to the same end, before them, had prevented him from bringing forward at an earlier period. But, when he had seen the session wearing away, without the prospect of any action in that other body, he felt himself compelled to come forward, though contrary to his wishes, and the advice of some of his best friends, with whom he had acted in the most perilous times.

"Mr. Calhoun said, he regretted, exceedingly, that the senator from Kentucky had felt it his duty to move the amendment. According to his present impressions, the objections to it were insurmountable; and, unless these were removed, he should be compelled to vote against the whole bill, should the amendment be adopted. The measure proposed was, in his opinion, unconstitutional. The constitution expressly provided that no preference should be given, by any regulation of commerce, to the ports of one State over those of another; and this would be the effect of adopting the amendment. Thus, great injustice and inequality must necessarily result from it; for the price of goods being cheaper in the Northern than in the Southern cities, a home valuation would give to the former a preference in the payment of duties. Again, the price of goods being higher at New Orleans and Charleston than at New-York, the freight and insurance also being higher, together with the increased expenses of a sickly climate, would give such advantages in the amount of duties to the Northern city, as to draw to it much of the trade of the Southern ones. In his view of the subject, this was not all. He was not merchant enough to say what would be the extent of duties under this system of home valuation; but, as he understood it, they must, of consequence, be progressive. For instance, an article is brought into New-York, value there 100 dollars. Twenty per cent. on that would raise the value of the article to one hundred and twenty dollars, on which value a duty of twenty per cent. would be assessed at the next importation, and so on. It would, therefore, be impossible to say to what extent the duties would run up. He regretted the more that the senator from Kentucky had felt it his duty to offer this amendment, as he was willing to leave the matter to the decision of a future Congress, though he did not see how they could get over the insuperable constitutional objections he had glanced at. Mr. C. appealed to the senator from Kentucky, whether, with these views, he would press his amendment, when he had eight or nine years in advance before it could take effect. He understood the argument of the senator from Kentucky to be an admission that the amendment was not now absolutely necessary. With respect to the apprehension of frauds on the revenue, Mr. C. said that every future Congress would have the strongest disposition to guard against them. The very reduction of duties, he said, would have that effect; it would strike at the root of the evil. Mr. C. said he agreed with the senator from Kentucky, that this bill will be the final effort at conciliation and compromise; and he, for one, was not disposed, if it passed, to violate it by future legislation.

"Mr. Clayton said that he could not vote for this bill without this amendment, nor would he admit any idea of an abandonment of the protective system; while he was willing to pass this measure, as one of concession from the stronger to the weaker party, he never could agree that twenty per cent. was adequate protection to our domestic manufactures. He had been anxious to do something to relieve South Carolina from her present perilous position; though he had never been driven by the taunts of Southern gentlemen to do that, which he now did, for the sake of conciliation. I vote for this bill, said Mr. C., only on the ground that it may save South Carolina from herself.

"Here Mr. C. yielded the floor to Mr. Calhoun, who said. He hoped the gentleman would not touch that question. He entreated him to believe that South Carolina had no fears for herself. The noble and disinterested attitude she had assumed was intended for the whole nation, while it was also calculated to relieve herself, as well as them, from oppressive legislation. It was not for them to consider the condition of South Carolina only, in passing on a measure of this importance.

"Mr. Clayton resumed. Sir, said he, I must be permitted to explain, in my own way, the reasons which will govern me in the vote I am about to give. As I said before, I never have permitted the fears of losing the protective system, as expressed by the senator from Georgia, when he taunted us with the majority that they would have in the next Congress, when they would get a better bill, to influence my opinion upon this occasion. That we have been driven by our fears into this act of concession, I will not admit. Sir, I tell gentlemen that they may never get such another offer as the present; for, though they may think otherwise, I do not believe that the people of this country will ever be brought to consent to the abandonment of the protective system.

"Does any man believe that fifty per cent. is an adequate protection on woollens? No, sir; the protection is brought down to twenty per cent.; and when gentlemen come to me and say that this is a compromise, I answer, with my friend from Maine, that I will not vote for it, unless you will give me the fair twenty per cent.; and this cannot be done without adopting the principle of a home valuation. I do not vote for this bill because I think it better than the tariff of 1832, nor because I fear nullification or secession; but from a motive of concession, yielding my own opinions. But if Southern gentlemen will not accept this measure in the spirit for which it was tendered, I have no reason to vote for it. I voted, said Mr. C., against the bill of '32, for the very reason that Southern gentlemen declared that it was no concession; and I may vote against this for the same reasons. I thought it bad policy to pass the bill of '32. I thought it a bad bargain, and I think so now. I have no fear of nullification or secession; I am not to be intimidated by threats of Southern gentlemen, that they will get a better bill at the next session. "Rebellion made young Harry Percy's spurs grow cold." I will vote for this measure as one of conciliation and compromise; but if the clause of the senator from Kentucky is not inserted, I shall be compelled to vote against it. The protective system never can be abandoned; and I, for one, will not now, or at any time, admit the idea.

"Mr. Dallas was opposed to the proposition from the committee, and agreed with Mr. Calhoun. He would state briefly his objection to the proposition of the committee. Although he was from a State strongly disposed to maintain the protective policy, he labored under an impression, that if any thing could be done to conciliate the Southern States, it was his duty to go for a measure for that purpose; but he should not go beyond it. He could do nothing in this way, as representing his particular district of the country, but only for the general good. He could not agree to incorporate in the bill any principle which he thought erroneous or improper. He would sanction nothing in the bill as an abandonment of the principle of protection. Mr. D. then made a few remarks on home and foreign valuation, to show the ground of his objections to the amendment of Mr. Clay, though it did not prevent his strong desire to compromise and conciliation.

"Mr. Clay thought it was premature to agitate now the details of a legislation which might take place nine years hence. The senator from South Carolina had objected to the amendment on constitutional grounds. He thought he could satisfy him, and every senator, that there was no objection from the constitution.

"He asked if it was probable that a valuation in Liverpool could escape a constitutional objection, if a home valuation were unconstitutional? There was a distinction in the foreign value, and in the thing valued. An invoice might be made of articles at one price in one port of England, and in another port at another price. The price, too, must vary with the time. But all this could not affect the rule. There was a distinction which gentlemen did not observe, between the value and the rule of valuation; one of these might vary, while the other continued always the same. The rule was uniform with regard to direct taxation; yet the value of houses and lands of the same quality are very different in different places. One mode of home valuation was, to give the government, or its officers, the right to make the valuation after the one which the importer had given. It would prevent fraud, and the rule would not violate the constitution. It was an error that it was unconstitutional; the constitution said nothing about it. It was absurd that all values must be established in foreign countries; no other country on earth should assume the right of judging. Objections had been made to leaving the business of valuation in the hands of a few executive officers; but the objections were at least equally great to leaving it in the hands of foreigners. He thought there was nothing in the constitutional objection, and hoped the measure would not be embarrassed by such objections.

"Mr. Calhoun said that he listened with great care to the remarks of the gentleman from Kentucky, and other gentlemen, who had advocated the same side, in hopes of having his objection to the mode of valuation proposed in the amendment removed; but he must say, that the difficulties he first expressed still remained. Pasing over what seemed to him to be a constitutional objection, he would direct his observation to what appeared to him to be its unequal operation. If by the home valuation be meant the foreign price, with the addition of freight, insurance, and other expenses at the port of destination, it is manifest that as these are unequal between the several ports in the Union—for instance, between the ports New-York and New Orleans—the duty must also be unequal in the same degree, if laid on value thus estimated. But if, by the home valuation be meant the prices current at the place of importation, then, in addition to the inequality already stated, there would have to be added the additional inequality resulting from the different rates of profits, and other circumstances, which must necessarily render prices very unequal in the several ports of this widely-extended country. There would, in the same view, be another and a stronger objection, which he alluded to in his former remarks, which remained unanswered—that the duties themselves constitute part of the elements of the current prices of the imported articles; and that, to impose a duty on a valuation ascertained by the current prices, would be to impose, in reality, a duty upon a duty, and must necessarily produce that increased progression in duties, which he had already attempted to illustrate.

"He knew it had been stated, in reply, that a system which would produce such absurd re-

sults could not be contemplated; that Congress, under the power of regulating, reserved in the amendment, would adopt some mode that would obviate these objections; and, if none such could be devised, that the provisions of the amendment would be simply useless. His difficulty was not removed by the answer to the objection. He was at a loss to understand what mode could be devised free from objection; and, as he wished to be candid and explicit, he felt the difficulty, as an honest man, to assent to a general measure, which, in all the modifications under which he had viewed it, was objectionable. He again repeated, that he regretted the amendment had been offered, as he felt a solicitude that the present controversy should be honorably and fairly terminated. It was not his wish that there should be a feeling of victory on either side. But, in thus expressing his solicitude for an adjustment, he was not governed by motives derived from the attitude which South Carolina occupied, and which the senator from Delaware stated to influence him. He wished that senator, as well as all others, to understand that that gallant and patriotic State was far from considering her situation as one requiring sympathy, and was equally far from desiring that any adjustment of this question should take place with the view of relieving her, or with any other motive than a regard to the general interests of the country. So far from requiring commiseration, she regarded her position with very opposite light, as one of high responsibility, and exposing her to no inconsiderable danger; but a position voluntarily and firmly assumed, with a full view of consequences, and which she was determined to maintain till the oppression under which she and the other Southern States were suffering was removed.

"In wishing, then, to see a termination to the present state of things, he turned not his eyes to South Carolina, but to the general interests of the country. He did not believe it was possible to maintain our institutions and our liberty, under the continuance of the controversy which had for so long a time distracted us, and brought into conflict the two great sections of the country. He was in the last stage of madness who did not see, if not terminated, that this admirable system of ours, reared by the wisdom and virtue of our ancestors—virtue, he feared, which had fled forever—would fall under its shocks. It was to arrest this catastrophe, if possible, by restoring peace and harmony to the Union, that governed him in desiring to see an adjustment of the question.

"Mr. Clayton said, this point had been discussed in the committee; and it was because this amendment was not adopted that he had withheld his assent from the bill. They had now but seven business days of this session remaining; and it would require the greatest unanimity, both in that body and in the other House, to pass any bill on this subject. Were gentlemen coming from the opposite extremes of the Union, and representing opposite interests, to agree to combine together, there would hardly be time to pass this bill into a law; yet if he saw that it could be done, he would gladly go on with the consideration of the bill, and with the determination to do all that could be done. The honorable member from South Carolina had found insuperable obstacles where he (Mr. C.) had found none. On their part, if they agreed to this bill, it would only be for the sake of conciliation; if South Carolina would not accept the measure in that light, then their motive for arrangement was at an end. He (Mr. C.) apprehended, however, that good might result from bringing the proposition forward at that time. It would be placed before the view of the people, who would have time to reflect and make up their minds upon it against the meeting of the next Congress. He did not hold any man as pledged by their action at this time. If the arrangement was found to be a proper one, the next Congress might adopt it. But, for the reasons he had already stated, he had little hope that any bill would be passed at this session; and, to go on debating it, day after day, would only have the effect of defeating the many private bills and other business which were waiting the action of Congress. He would therefore propose to lay the bill for the present on the table; if it were found, at a future period, before the expiration of the session, that there was a prospect of overcoming the difficulties which now presented themselves, and of acting upon it, the bill might be again taken up. If no other gentleman wished to make any observations on the amendment, he would move to lay the bill on the table.

"Mr. Bibb requested the senator from Delaware to withdraw his motion, whilst he (Mr. B.) offered an amendment to the amendment, having for its object to get rid of that interminable series of duties of which gentlemen had spoken.

"Mr. Clayton withdrew his motion.

"Mr. Bibb proceeded to say, that his design was to obviate the objection of the great increase that would arise from a system of home valuation. He hoped that something satisfactory would be done this session yet. He should vote for every respectable proposition calculated to settle the difficulty. He hoped there would be corresponding concessions on both sides; he wished much for the harmony of the country. It was well known that he (Mr. B.) was opposed to any tariff system other than one for revenue, and such incidental protection as that might afford. His hope was to strike out a middle course; otherwise, he would concur in the motion that had been made by the senator from Delaware [Mr. Clayton]. Mr. B. then submitted his amendment, to insert the words 'before payment of,' &c.

"Mr. Clay was opposed to the amendment, and he hoped his worthy colleague would withdraw it. If one amendment were offered and debated, another, and another would follow; and

thus, the remaining time would be wasted. To fix any precise system would be extremely difficult at present. He only wished the principle to be adopted.

"Mr. Bibb acceded to the wish of the senator from Kentucky, and withdrew his amendment accordingly.

"Mr. Tyler was opposed to the principle of this home valuation. The duties would be taken into consideration in making the valuations; and thus, after going down hill for nine and a half years, we would as suddenly rise up again to prohibition. He complained that there were not merchants enough on this floor from the South; and, in this respect, the Northern States had the advantage. But satisfy me, said Mr. T., that the views of the senator from South Carolina [Mr. Calhoun] are not correct, and I shall vote for the proposition.

"Mr. Moore said he would move an amendment which he hoped would meet the views of the gentlemen on the other side; it was to this effect:

"*Provided*, That no valuation be adopted that will operate unequally in different ports of the United States.

"Mr. Calhoun also wished that the amendment would prevail, though he felt it would be ineffectual to counteract the inequality of the system. But he would raise no cavilling objections; he wished to act in perfect good faith; and he only wished to see what could be done.

"Mr. Moore said he had but two motives in offering the amendment to the amendment of the senator. The first was, to get rid of the constitutional objections to the amendment of the senator from Kentucky; and the second was, to do justice to those he had the honor to represent. The honorable gentleman said that Mobile and New Orleans would not pay higher duties, because the goods imported there would be of more value; and this was the very reason, Mr. M. contended, why the duties would be higher. Did not every one see that if the same article was valued in New-York at one hundred dollars, and in Mobile at one hundred and thirty-five dollars, the duty of twenty per cent. would be higher at the latter place? He had nothing but the spirit of compromise in view, and hoped gentlemen would meet him in the same spirit. He would now propose, with the permission of the senator from Maine, to vary his motion, and offer a substitute in exact conformity with the language of the constitution. This proposition being admitted by general consent, Mr. Moore modified his amendment accordingly. (It was an affirmation of the constitution, that all duties should be uniform, &c).

'Mr. Forsyth supported the amendment of the senator from Alabama, and hoped it would meet the approbation of the Senate. It would get rid of all difficulty about words. No one, he presumed, wished to violate the constitution; and if the measure of the senator from Kentucky was consistent with the constitution, it would prevail; if not, it would not be adopted.

"Mr. Holmes moved an adjournment.

"Mr. Moore asked for the yeas and nays on the motion to adjourn, and they were accordingly ordered, when the question was taken and decided in the affirmative—Yeas 22, nays 19, as follows:

"YEAS.—Messrs. Bell, Clayton, Dallas, Dickerson, Ewing, Foot, Frelinghuysen, Holmes, Johnston, Kane, Knight, Naudain, Prentiss, Robbins, Robinson, Silsbee, Smith, Tipton, Tomlinson, Waggaman, Webster, Wilkins.—22.

"NAYS.—Messrs. Bibb, Black, Buckner, Calhoun, Clay, Dudley, Grundy, Hendricks, Hill, King, Miller, Moore, Poindexter, Sprague, Rives, Troup, Tyler, White, Wright.—19.

"The Senate then, at half-past four o'clock, adjourned.

"*Friday, February* 22.

"Mr. Smith (of Md.) said, the motion to amend by the word 'uniform' was unnecessary. That was provided for by the constitution. 'All duties must be uniform.' An addition to the cost of goods of forty, fifty, or sixty per cent. would be uniform, but would not prevent fraud, nor the certainty of great inequality in the valuation in the several ports. The value of goods at New Orleans particularly, and at almost every other port, will be higher than at New-York. I have not said that such mode was unconstitutional, nor have I said that it was impracticable; few things are so. But I have said, and do now say, that the mode is open to fraud, and more so than the present. At present the merchant enters his goods, and swears to the truth of his invoice. One package in every five or ten is sent to the public warehouse, and there carefully examined by two appraisers on oath. If they find fraud, or suspect fraud, then all the goods belonging to such merchants are sent to the appraisers; and if frauds be discovered, the goods are forfeited. No American merchant has ever been convicted of such fraud. Foreigners have even been severely punished by loss of their property. The laws are good and sufficiently safe as they now stand on our statutes. I wish no stronger; we know the one, we are ignorant how the other will work. Such a mode of valuation is unknown to any nation except Spain, where the valuation is arbitrary; and the goods are valued agreeably to the amount of the bribe given. This is perfectly understood and practised. It is in the nature of such mode of valuation to be arbitrary. No rule can be established that will make such mode uniform throughout the Union, and some of the small ports will value low to bring business to their towns. A scene of connivance and injustice will take place that no law can prevent.

"The merchant will be put to great inconvenience by the mode proposed. All his goods must be sent to the public warehouses, and there opened piece by piece; by which process they

will sustain essential injury. The goods will be detained from the owners for a week or a month, or still more, unless you have one or two hundred appraisers in New-York, and proportionately in other ports; thus increasing patronage; and with such a host, can we expect either uniformity or equality in the valuation? All will not be honest, and the Spanish mode will be adopted. One set of appraisers, who value low, will have a priority. In fact, if this mode should ever be adopted, it will cause great discontent, and must soon be changed. As all understand the cause to be to flatter the manufacturers with a plan which they think will be beneficial to them, but which, we all know, can never be realized, it is deception on its face, as is almost the whole of the bill now under our consideration.

"Remember, Mr. President, that the senators from Kentucky and South Carolina [Mr. Clay and Mr. Calhoun], have declared this bill (if it should become a law), to be permanent, and that no honorable man who shall vote for it can ever attempt a change; yet, sir, the pressure against it will be such at the next session that Congress will be compelled to revise it; and as the storm may then have passed over Congress, a new Congress, with better feelings, will be able to act with more deliberation, and may pass a law that will be generally approved. Nearly all agree that this bill is a bad bill. A similar opinion prevailed on the passage of the tariff of 1828, and yet it passed, and caused all our present danger and difficulties. All admit that the act of 1828, as it stands on our statutes, is constitutional. But the senator [Mr. Calhoun] has said that it is unconstitutional, because of the motive under which it passed; and he said that that motive was protection to the manufacturers. How, sir, I ask, are we to know the motives of men? I thought then, and think now, that the approaching election for President tended greatly to the enactments of the acts of 1824 and 1828; many of my friends thought so at the time. I have somewhere read of the minister of a king or emperor in Asia, who was anxious to be considered a man of truth, and always boasted of his veracity. He hypocritically prayed to God that he might always speak the truth. A genii appeared and told him that his prayer had been heard, touched him with his spear, and said, hereafter you will speak truth on all occasions. The next day he waited on his majesty and said, Sire, I intended to have assassinated you yesterday, but was prevented by the nod of the officer behind you, who is to kill you to-morrow. The result I will not mention. Now, Mr. President, if the same genii was to touch with his spear each of the senators who voted for the act of 1828, and an interrogator was appointed, he would ask, what induced you to give that vote? Why sir, I acted on sound principles. I believe it is the duty of every good government to promote the manufactures of the nation; all historians eulogize the kings who have done so, and censure those kings who have neglected them. I refer you to the history of Alfred. It is known that the staple of England was wool, which was sent to Flanders to be exchanged for cloths. The civil wars, by the invasions of that nation, kept them long dependent on the Flemings for the cloths they wore. At length a good king governed; and he invited Flemish manufacturers to England, and gave them great privileges. They taught the youth of England, the manufacture succeeded, and now England supplies all the world with woollen cloth. The interrogator asked another the same question. His answer might have been, that he thought the passing of the law would secure the votes of the manufacturers in favor of his friend who wanted to be the President. Another answer might have been, a large duty was imposed on an article which my constituents raised; and I voted for it, although I disliked all the residue of the bill. Sir, the motives, no doubt, were different that induced the voting for that bill, and were, as we all know, not confined to the protective system. Many voted on political grounds, as many will on this bill, and as they did on the enforcing bill. We cannot declare a bill unconstitutional, because of the motives that may govern the voters. It is idle to assign such a cause for the part that is now acting in South Carolina. I know, Mr. President, that no argument will have any effect on the passage of this bill. The high contracting parties have agreed. But I owed it to myself to make these remarks.

"Mr. Webster said, that he held the home valuation to be, to any extent, impracticable; and that it was unprecedented, and unknown in any legislation. Both the home and foreign valuation ought to be excluded as far as possible, and specific duties should be resorted to. This keeping out of view specific duties, and turning us back to the principle of a valuation was, in his view, the great vice of this bill. In England five out of six, or nine out of ten articles, pay specific duties, and the valuation is on the remnant. Among the articles which pay *ad valorem* duties in England are silk goods, which are imported either from India, whence they are brought to one port only; or from Europe, in which case there is a specific and an *ad valorem* duty; and the officer has the option to take either the one or the other. He suggested that the Senate, before they adopted the *ad valorem* principle, should look to the effects on the importation of the country.

"He took a view of the iron trade, to show that evil would result to that branch from a substitution of the *ad valorem* for the specific system of duties. He admitted himself to be unable to comprehend the elements of a home valuation, and mentioned cases where it would be impossible to find an accurate standard of valuation of this character. The plan was impracticable and illusory.

"Mr. Clayton said, I would go for this bill

only for the sake of concession. The senator from South Carolina can tell whether it is likely to be received as such, and to attain the object proposed; if not, I have a plain course to pursue; I am opposed to the bill. Unless I can obtain for the manufacturers the assurance that the principle of the bill will not be disturbed, and that it will be received in the light of a concession, I shall oppose it.

"Mr. Benton objected to the home valuation, as tending to a violation of the constitution of the United States, and cited the following clause: 'Congress shall have power to lay and collect taxes, duties, imposts, and excises; but all duties, imposts, and excises shall be uniform throughout the United States.' All uniformity of duties and imposts, he contended, would be destroyed by this amendment. No human judgment could fix the value of the same goods at the same rate, in all the various ports of the United States. If the same individual valued the goods in every port, and every cargo in every port, he would commit innumerable errors and mistakes in the valuation; and, according to the diversity of these errors and mistakes, would be the diversity in the amount of duties and imposts laid and collected in the different ports.

"Mr. B. objected to the home valuation, because it would be injurious and almost fatal to the southern ports. He confined his remarks to New Orleans. The standard of valuation would be fifteen or twenty per cent. higher in New Orleans than in New-York, and other northern ports. All importers will go to the northeastern cities, to evade high duties at New Orleans; and that great emporium of the West will be doomed to sink into a mere exporting city, while all the money which it pays for exports must be carried off and expended elsewhere for imports. Without an import trade, no city can flourish, or even furnish a good market for exports. It will be drained of its effective cash, and deprived of its legitimate gains, and must languish far in the rear of what it would be, if enriched with the profits of an import trade. As an exporter, it will buy; as an importer, it will sell. All buying, and no selling, must impoverish cities as well as individuals. New Orleans is now a great exporting city; she exports more domestic productions than any city in the Union; her imports have been increasing, for some years; and, with fair play, would soon become next to New-York, and furnish the whole valley of the Mississippi with its immense supplies of foreign goods; but, under the influence of a home valuation, it must lose a greater part of the import trade which it now possesses. In that loss, its wealth must decline; its capacity to purchase produce for exportation must decline; and as the western produce must go there, at all events, every western farmer will suffer a decline in the value of his own productions, in proportion to the decline of the ability of New Orleans to purchase it. It was as a western citizen that he pleaded the cause of New Orleans, and objected to this measure of home valuation, which was to have the most baneful effect upon her prosperity.

"Mr. B. further objected to the home valuation, on account of the great additional expense it would create; the amount of patronage it would confer; the rivalry it would beget between importing cities; and the injury it would occasion to merchants, from the detention and handling of their goods; and concluded with saying, that the home valuation was the most obnoxious feature ever introduced into the tariff acts; that it was itself equivalent to a separate tariff of ten per cent.; that it had always been resisted, and successfully resisted, by the anti-tariff interest, in the highest and most palmy days of the American system, and ought not now to be introduced when that system is admitted to be nodding to its fall; when its death is actually fixed to the 30th day of June, 1842, and when the restoration of harmonious feelings is proclaimed to be the whole object of this bill.

"Mr. B. said this was a strange principle to bring into a bill to reduce duties. It was an increase, in a new form—an indefinable form—and would be tax upon tax, as the whole cost of getting the goods ready for a market valuation here, would have to be included: original cost, freight, insurance, commissions, duties here. It was new protection, in a new form, and in an extraordinary form, and such as never could be carried before. It had often been attempted, as as a part of the American system, but never received countenance before.

"Mr. Calhoun rose and said:

"As the question is now about to be put on the amendment offered by the senator from Kentucky, it became necessary for him to determine whether he should vote for or against it. He must be permitted again to express his regret that the senator had thought proper to move it. His objection still remained strong against it; but, as it seemed to be admitted, on all hands, that the fate of the bill depended on the fate of the amendment, feeling, as he did, a solicitude to see the question terminated, he had made up his mind, not, however, without much hesitation, not to interpose his vote against the adoption of the amendment; but, in voting for it, he wished to be distinctly understood, he did it upon two conditions: first, that no valuation would be adopted that should come in conflict with the provision in the constitution which declares that duties, excises, and imposts shall be uniform; and, in the next place, that none would be adopted which would make the duties themselves a part of the element of a home valuation. He felt himself justified in concluding that none such would be adopted; as it had been declared by the supporters of the amendment, that no such regulation was contemplated; and, in fact, he could not imagine that any such could be contemplated, whatever interpretation might be attempted hereafter to be given to the expression

of the home market. The first could scarcely be contemplated, as it would be in violation of the constitution itself; nor the latter, as it would, by necessary consequence, restore the very duties, which it was the object of this bill to reduce, and would involve the glaring absurdity of imposing duties on duties, taxes on taxes. He wished the reporters for the public press to notice particularly what he said, as he intended his declaration to be part of the proceedings.

"Believing, then, for the reasons which he had stated, that it was not contemplated that any regulation of the home valuation should come in conflict with the provisions of the constitution which he had cited, nor involve the absurdity of laying taxes upon taxes, he had made up his mind to vote in favor of the amendment.

"Mr. Smith said, any declaration of the views and motives, under which any individual senator might now vote, could have no influence, in 1842; they would be forgotten long before that time had arrived. The law must rest upon the interpretation of its words alone.

"Mr. Calhoun said he could not help that; he should endeavor to do his duty.

"Mr. Clayton said there was certainly no ambiguity whatever in the phraseology of the amendment. In advocating it, he had desired to deceive no man; he sincerely hoped no one would suffer himself to be deceived by it.

"Mr. Wilkins said, if it had been his intention to have voted against the amendment, he should have remained silent; but, after the explicit declaration of the honorable gentleman from South Carolina [Mr. Calhoun] of the reason of his vote, and believing, himself, that the amendment would have a different construction from that given it by the gentleman, he [Mr. W.] would as expressly state, that he would vote on the question, with the impression that it would not hereafter be expounded by the declaration of any senator on this floor, but by the plain meaning of the words in the text.

"The amendment of Mr. Clay, fixing the principle of home valuation as a part of the bill, was then adopted, by the following vote:

"YEAS.—Messrs. Bell, Black, Bibb, Calhoun, Chambers, Clay, Clayton, Ewing, Foot, Frelinghuysen, Hill, Holmes, Johnson, King, Knight, Miller, Moore, Naudain, Poindexter, Prentiss, Rives, Robbins, Sprague, Tomlinson, Tyler, Wilkins.—26.

"NAYS.—Messrs. Benton, Buckner, Dallas, Dickerson, Dudley, Forsyth, Grundy, Kane, Robinson, Seymour, Silsbee, Smith, Waggaman, Webster, White, Wright.—16."

And thus a new principle of protection, never before engrafted on the American system, and to get at which the constitution had to be violated in the article of the uniformity of duties, was established! and established by the aid of those who declared all protection to be unconstitutional, and just cause for the secession of a State from the Union! and were then acting on that assumption.

CHAPTER LXXXIII.

REVENUE COLLECTION, OR FORCE BILL.

THE President in his message on the South Carolina proceedings had recommended to Congress the revival of some acts, heretofore in force, to enable him to execute the laws in that State; and the Senate's committee on the Judiciary had reported a bill accordingly early in the session. It was immediately assailed by several members as violent and unconstitutional, tending to civil war, and denounced as "the bloody bill"—"the force bill," &c. Mr. Wilkins of Pennsylvania, the reporter of the bill, vindicated it from this injurious character, showed that it was made out of previous laws, and contained nothing novel but the harmless contingent authority to remove the office of the customs from one building to another in the case of need. He said:

"The Judiciary Committee, in framing it, had been particularly anxious not to introduce any novel principle—any which could not be found on the statute book. The only novel one which the bill presented was one of a very simple nature. It was that which authorized the President, under the particular circumstances which were specified in the bill, to remove the custom-house. This was the only novel principle, and care was taken that in providing for such removal no authority was given to use force.

"The committee were apprehensive that some collision might take place after the 1st of February, either between the conflicting parties of the citizens of South Carolina, or between the officers of the federal government and the citizens. And to remove, as far as possible, all chance of such collision, provision was made that the collector might, at the moment of imminent danger, remove the custom-house to a place of security; or, to use a plain phrase, put it out of harm's way. He admitted the importance of this bill; but he viewed its importance as arising not out of the provisions of the bill itself, but out of the state of affairs in South Carolina, to which the bill had reference. In this view, it was of paramount importance.

"It had become necessary to legislate on this subject; whether it was necessary to pass the bill or not, he would not say; but legislation, in

reference to South Carolina, previous to the 1st of February, had become necessary. Something must be done; and it behooves the government to adopt every measure of precaution, to prevent those awful consequences which all must foresee as necessarily resulting from the position which South Carolina has thought proper to assume.

"Here nullification is declaimed, on one hand, unless we abolish our revenue system. We consenting to do this, they remain quiet. But if we go a hair's breadth towards enforcing that system, they present secession. We have secession on one hand, and nullification on the other. The senator from South Carolina admitted the other day that no such thing as constitutional secession could exist. Then civil war, disunion, and anarchy must accompany secession. No one denies the right of revolution. That is a natural, indefeasible, inherent right—a right which we have exercised and held out, by our example, to the civilized world. Who denies it? Then we have revolution by force, not constitutional secession. That violence must come by secession is certain. Another law passed by the legislature of South Carolina, is entitled a bill to provide for the safety of the people of South Carolina. It advises them to put on their armor. It puts them in military array; and for what purpose but for the use of force? The provisions of these laws are infinitely worse than those of the feudal system, so far as they apply to the citizens of Carolina. But with its operations on their own citizens he had nothing to do. Resistance was just as inevitable as the arrival of the day on the calendar. In addition to these documents, what did rumor say—rumor, which often falsifies, but sometimes utters truth. If we judge by newspaper and other reports, more men were now ready to take up arms in Carolina, than there were during the revolutionary struggle. The whole State was at this moment in arms, and its citizens are ready to be embattled the moment any attempt was made to enforce the revenue laws. The city of Charleston wore the appearance of a military depot."

The Bill was opposed with a vehemence rarely witnessed, and every effort made to render it odious to the people, and even to extend the odium to the President, and to all persons instrumental in bringing it forward, or urging it through. Mr. Tyler of Virginia, was one of its warmest opposers, and in the course of an elaborate speech, said:

"In the course of the examination I have made into this subject, I have been led to analyze certain doctrines which have gone out to the world over the signature of the President. I know that my language may be seized on by those who are disposed to carp at my course and to misrepresent me. Since I have held a place on this floor, I have not courted the smiles of the Executive; but whenever he had done any act in violation of the constitutional rights of the citizen, or trenching on the rights of the Senate, I have been found in opposition to him. When he appointed corps of editors to office, I thought it was my duty to oppose his course. When he appointed a minister to a foreign court without the sanction of the law, I also went against him, because, on my conscience, I believed that the act was wrong. Such was my course, acting, as I did, under a sense of the duty I owed to my constituents; and I will now say, I care not how loudly the trumpet may be sounded, nor how low the priests may bend their knees before the object of their idolatry, I will be at the side of the President, crying in his ear, 'Remember, Philip, thou art mortal!'

"I object to the first section, because it confers on the President the power of closing old ports of entry and establishing new ones. It has been rightly said by the gentleman from Kentucky [Mr. Bibb] that this was a prominent cause which led to the Revolution. The Boston port bill, which removed the custom-house from Boston to Salem, first roused the people to resistance. To guard against this very abuse, the constitution had confided to Congress the power to regulate commerce; the establishment of ports of entry formed a material part of this power, and one which required legislative enactment. Now I deny that Congress can deputize its legislative powers. If it may one, it may all; and thus, a majority here can, at their pleasure, change the very character of the government. The President might come to be invested with authority to make all laws which his discretion might dictate. It is vain to tell me (said Mr. T.) that I imagine a case which will never exist. I tell you, sir, that power is cumulative, and that patronage begets power. The reasoning is unanswerable. If you can part with your power in one instance, you may in another and another. You may confer upon the President the right to declare war; and this very provision may fairly be considered as investing him with authority to make war at his mere will and pleasure on cities, towns, and villages. The prosperity of a city depends on the position of its custom-house and port of entry. Take the case of Norfolk, Richmond, and Fredericksburg, in my own State; who doubts but that to remove the custom-house from Norfolk to Old Point Comfort, of Richmond to the mouth of Chickahominy, or of Fredericksburg to Tappahannock or Urbanna, would utterly annihilate those towns? I have no tongue to express my sense of the probable injustice of the measure. Sir, it involves the innocent with the guilty. Take the case of Charleston; what if ninety-nine merchants were ready and willing to comply with your revenue laws, and that but one man could be found to resist them; would you run the hazard of destroying the ninety-nine in order to punish one? Trade is a delicate subject to touch; once divert it out of its regular channels, and

nothing is more difficult than to restore it. This measure may involve the actua property of every man, woman, and child in that city; and this, too, when you have a redundancy of millions in your treasury, and when no interest can sustain injury by awaiting the actual occurrence of a case of resistance to your laws, before you would have an opportunity to legislato.

"He is further empowered to employ the land and naval forces, to put down all 'aiders and abettors.' How far will this authority extend? Suppose the legislature of South Carolina should happen to be in session: I will not blink the question, suppose the legislature to be in session at the time of any disturbance, passing laws in furtherance of the ordinance which has been adopted by the convention of that State; might they not be considered by the President as aiders and abettors? The President might not, perhaps, march at the head of his troops, with a flourish of drums and trumpets, and with bayonets fixed, into the state-house yard, at Columbia; but, if he did so, he would find a precedent for it in English history.

"There was no ambiguity about this measure. The prophecy had already gone forth; the President has said that the laws will be obstructed. The President had not only foretold the coming difficulties, but he has also assembled an army. The city of Charleston, if report spoke true, was now a beleagured city; the cannon of Fort Pinckney are pointing at it; and although they are now quietly sleeping, they are ready to open their thunders whenever the voice of authority shall give the command. And shall these terrors be let loose because some one man may refuse to pay some small modicum of revenue, which Congress, the day after it came into the treasury, might vote in satisfaction of some unfounded claim? Shall we set so small a value upon the lives of the people? Let us at least wait to see the course of measures. We can never be too tardy in commencing the work of blood.

"If the majority shall pass this bill, they must do it on their own responsibility; I will have no part in it. When gentlemen recount the blessings of union; when they dwell upon the past, and sketch out, in bright perspective, the future, they awaken in my breast all the pride of an American; my pulse beats responsive to theirs, and I regard union, next to freedom, as the greatest of blessings. Yes, sir, 'the federal Union must be preserved.' But how? Will you seek to preserve it by force? Will you appease the angry spirit of discord by an oblation of blood? Suppose that the proud and haughty spirit of South Carolina shall not bend to your high edicts in token of fealty; that you make war upon her, hang her Governor, her legislators, and judges, as traitors, and reduce her to the condition of a conquered province—have you preserved the Union? This Union consists of twenty-four States; would you have preserved the Union by striking out one of the States—one of the old thirteen? Gentlemen had boasted of the flag of our country, with its thirteen stars. When the light of one of these stars shall have been extinguished, will the flag wave over us, under which our fathers fought? If we are to go on striking out star after star, what will finally remain but a central and a burning sun, blighting and destroying every germ of liberty? The flag which I wish to wave over me, is that which floated in triumph at Saratoga and Yorktown. It bore upon it thirteen States, of which South Carolina was one. Sir, there is a great difference between preserving Union and preserving government; the Union may be annihilated, yet government preserved; but, under such a government, no man ought to desire to live."

Mr. Webster, one of the committee which reported the bill, justly rebuked all this vituperation, and justified the bill, both for the equity of its provisions, and the necessity for enacting them. He said:

"The President, charged by the constitution with the duty of executing the laws, has sent us a message, alleging that powerful combinations are forming to resist their execution; that the existing laws are not sufficient to meet the crisis; and recommending sundry enactments as necessary for the occasion. The message being referred to the Judiciary Committee, that committee has reported a bill in compliance with the President's recommendation. It has not gone beyond the message. Every thing in the bill, every single provision, which is now complained of, is in the message. Yet the whole war is raised against the bill, and against the committee, as if the committee had originated the whole matter. Gentlemen get up and address us, as if they were arguing against some measure of a factious opposition. They look the same way, sir, and speak with the same vehemence, as they used to do when they raised their patriotic voices against what they called a 'coalition.'

"Now, sir, let it be known, once for all, that this is an administration measure; that it is the President's own measure; and I pray gentlemen to have the goodness, if they call it hard names, and talk loudly against its friends, not to overlook its source. Let them attack it, if they choose to attack it, in its origin.

"Let it be known, also, that a majority of the committee reporting the bill are friends and supporters of the administration; and that it is maintained in this house by those who are among his steadfast friends, of long standing.

"It is, sir, as I have already said, the President's own measure. Let those who oppose it, oppose it as such. Let them fairly acknowledge its origin, and meet it accordingly.

"The honorable member from Kentucky, who spoke first against the bill, said he found in it another Jersey prison-ship; let him state, then,

that the President has sent a message to Congress, recommending a renewal of the sufferings and horrors of the Jersey prison-ship. He says, too, that the bill snuffs of the alien and sedition law. But the bill is fragrant of no flower except the same which perfumes the message. Let him, then, say, if he thinks so, that General Jackson advises a revival of the principles of the alien and sedition laws.

"The honorable member from Virginia [Mr. Tyler], finds out a resemblance between this bill and the Boston port bill. Sir, if one of these be imitated from the other, the imitation is the President's. The bill makes the President, he says, sole judge of the constitution. Does he mean to say that the President has recommended a measure which is to make him sole judge of the constitution? The bill, he declares, sacrifices every thing to arbitrary power —he will lend no aid to its passage—he would rather 'be a dog, and bay the moon, than such a Roman.' He did not say 'the old Roman.' Yet the gentleman well knows, that if any thing is sacrificed to arbitrary power, the sacrifice has been demanded by the 'old Roman,' as he and others have called him; by the President whom he has supported, so often and so ably, for the chief magistracy of the country. He says, too, that one of the sections is an English Botany Bay law, except that it is much worse. This section, sir, whatever it may be, is just what the President's message recommended. Similar observations are applicable to the remarks of both the honorable gentlemen from North Carolina. It is not necessary to particularize those remarks. They were in the same strain.

"Therefore, sir, let it be understood, let it be known, that the war which these gentlemen choose to wage, is waged against the measures of the administration, against the President of their own choice. The controversy has arisen between him and them, and, in its progress, they will probably come to a distinct understanding.

"Mr. President, I am not to be understood as admitting that these charges against the bill are just, or that they would be just if made against the message. On the contrary, I think them wholly unjust. No one of them, in my opinion, can be made good. I think the bill, or some similar measure, had become indispensable, and that the President could not do otherwise than to recommend it to the consideration of Congress. He was not at liberty to look on and be silent, while dangers threatened the Union, which existing laws were not competent, in his judgment, to avert.

"Mr. President, I take this occasion to say, that I support this measure, as an independent member of the Senate, in the discharge of the dictates of my own conscience. I am no man's leader; and, on the other hand, I follow no lead, but that of public duty, and the star of the constitution. I believe the country is in considerable danger; I believe an unlawful combination threatens the integrity of the Union. I believe the crisis calls for a mild, temperate, forbearing, but inflexibly firm execution of the laws. And, under this conviction, I give a hearty support to the administration, in all measures which I deem to be fair, just, and necessary. And in supporting these measures, I mean to take my fair share of responsibility, to support them frankly and fairly, without reflections on the past, and without mixing other topics in their discussion.

"Mr. President, I think I understand the sentiment of the country on this subject. I think public opinion sets with an irresistible force in favor of the Union, in favor of the measures recommended by the President, and against the new doctrines which threaten the dissolution of the Union. I think the people of the United States demand of us, who are intrusted with the government, to maintain that government; to be just, and fear not; to make all and suitable provisions for the execution of the laws, and to sustain the Union and the constitution against whatsoever may endanger them. For one, I obey this public voice; I comply with this demand of the people. I support the administration in measures which I believe to be necessary; and, while pursuing this course, I look unhesitatingly, and with the utmost confidence, for the approbation of the country.

The support which Mr. Webster gave to all the President's measures in relation to South Carolina, and his exposure of the doctrine of nullification, being the first to detect and denounce that heresy, made him extremely obnoxious to Mr. Calhoun, and his friends; and must have been the main cause of his exclusion from the confidence of Mr. Clay and Mr. Calhoun in the concoction of their bill, called a compromise. His motives as well as his actions were attacked, and he was accused of subserviency to the President for the sake of future favor. At the same time all the support which he gave to these measures was the regular result of the principles which he laid down in his first speeches against nullification in the debate with Mr. Hayne, and he could not have done less without being derelict to his own principles then avowed. It was a proud era in his life, supporting with transcendent ability the cause of the constitution and of the country, in the person of a chief magistrate to whom he was politically opposed bursting the bonds of party at the call of duty, and displaying a patriotism worthy of admiration and imitation. General Jackson felt the debt of gratitude and admiration which he

owed him; the country, without distinction of party, felt the same; and the universality of the feeling was one of the grateful instances of popular applause and justice when great talents are seen exerting themselves for the good of the country. He was the colossal figure on the political stage during that eventful time; and his labors, splendid in their day, survive for the benefit of distant posterity.

CHAPTER LXXXIV.

MR. CALHOUN'S NULLIFICATION RESOLUTIONS.

Simultaneously with the commencement of the discussions on the South Carolina proceedings, was the introduction in the Senate of a set of resolutions by Mr. Calhoun, entitled by him, "*Resolutions on the powers of the government;*" but all involving the doctrine of nullification; and the debate upon them deriving its point and character from the discussion of that doctrine. The following were the resolutions:

"*Resolved*, That the people of the several States composing these United States are united as parties to a constitutional compact, to which the people of each State acceded as a separate sovereign community, each binding itself by its own particular ratification; and that the Union, of which the said compact is the bond, is a union between the States ratifying the same.

"*Resolved*, That the people of the several States, thus united by the constitutional compact, in forming that instrument, and in creating a general government to carry into effect the objects for which they were formed, delegated to that government, for that purpose, certain definite powers, to be exercised jointly, reserving at the same time, each State to itself, the residuary mass of powers, to be exercised by its own separate government; and that whenever the general government assumes the exercise of powers not delegated by the compact, its acts are unauthorized, and are of no effect; and that the same government is not made the final judge of the powers delegated to it, since that would make its discretion, and not the constitution, the measure of its powers; but that, as in all other cases of compact among sovereign parties, without any common judge, each has an equal right to judge for itself, as well as of the infraction as of the mode and measure of redress.

"*Resolved*, That the assertions that the people of these United States, taken collectively as individuals, are now, or ever have been, united on the principle of the social compact, and as such are now formed into one nation or people, or that they have ever been so united in any one stage of their political existence; that the people of the several States composing the Union have not, as members thereof, retained their sovereignty; that the allegiance of their citizens has been transferred to the general government; that they have parted with the right of punishing treason through their respective State governments; and that they have not the right of judging in the last resort as to the extent of the powers reserved, and, of consequence, of those delegated; are not only without foundation in truth, but are contrary to the most certain and plain historical facts, and the clearest deductions of reason; and that all exercise of power on the part of the general government, or any of its departments, claiming authority from so erroneous assumptions, must of necessity be unconstitutional, must tend directly and inevitably to subvert the sovereignty of the States, to destroy the federal character of the Union, and to rear on its ruins a consolidated government, without constitutional check or limitation, and which must necessarily terminate in the loss of liberty itself."

To which Mr. Grundy offered a counter set, as follows:

"1. *Resolved*, That by the constitution of the United States, certain powers are delegated to the general government, and those not delegated, or prohibited to the States, are reserved to the States respectively, or to the people.

"2. *Resolved*, That one of the powers expressly granted by the constitution to the general government, and prohibited to the States, is that of laying duties on imports.

"3. *Resolved*, That the power to lay imposts is by the constitution wholly transferred from the State authorities to the general government, without any reservation of power or right on the part of the State.

"4. *Resolved*, That the tariff laws of 1828 and 1832 are exercises of the constitutional power possessed by the Congress of the United States, whatever various opinions may exist as to their policy and justice.

"5. *Resolved*, That an attempt on the part of a State to annul an act of Congress passed upon any subject exclusively confided by the constitution to Congress, is an encroachment on the rights of the general government.

"6. *Resolved*, That attempts to obstruct or prevent the execution of the several acts of Congress imposing duties on imports, whether by ordinances of conventions or legislative enactments, are not warranted by the constitution and are dangerous to the political institutions of the country."

It was in the discussion of these resolutions,

and the kindred subjects of the "force bill" and the "revenue collection bill," that Mr. Calhoun first publicly revealed the source from which he obtained the seminal idea of nullification as a remedy in a government. The Virginia resolutions of '98–'99, were the assumed source of the power itself as applicable to our federal and State governments; but the essential idea of nullification as a peaceful and lawful mode of arresting a measure of the general government by the action of one of the States, was derived from the *veto* power of the tribunes of the people in the Roman government. I had often heard him talk of that tribunitian power, and celebrate it as the perfection of good government—as being for the benefit of the weaker part, and operating negatively to prevent oppression, and not positively to do injustice—but I never saw him carry that idea into a public speech but once, and that was on the discussion of his resolutions of this session; for though actually delivered while the "force bill" was before the Senate, yet all his doctrinal argument on that bill was the amplification of his nullification resolutions. On that occasion he traced the Roman tribunitian power, and considered it a cure for all the disorders to which the Roman state had been subject, and the cause to which all her subsequent greatness was to be attributed. This remarkable speech was delivered February 15th, 1833, and after depicting a government of the majority—a majority unchecked by a right in the minority of staying their measures—to be unmitigated despotism, he then proceeded to argue in favor of the excellence of the *veto* and the *secession* power; and thus delivered himself:

"He might appeal to history for the truth of these remarks, of which the Roman furnished the most familiar and striking. It was a well-known fact, that, from the expulsion of the Tarquins, to the time of the establishment of the tribunitian power, the government fell into a state of the greatest disorder and distraction, and, he might add, corruption. How did this happen? The explanation will throw important light on the subject under consideration. The community was divided into two parts, the patricians and the plebeians, with the powers of the state principally in the hands of the former, without adequate check to protect the rights of the latter. The result was as might be expected. The patricians converted the powers of the government into the means of making money, to enrich themselves and their dependants. They, in a word, had their American system, growing out of the peculiar character of the government and condition of the country. This requires explanation. At that period, according to the laws of nations, when one nation conquered another, the lands of the vanquished belonged to the victors; and, according to the Roman law the lands thus acquired were divided into parts, one allotted to the poorer class of the people, and the other assigned to the use of the treasury, of which the patricians had the distribution and administration. The patricians abused their power, by withholding from the people that which ought to have been allotted to them, and by converting to their own use that which ought to have gone to the treasury. In a word, they took to themselves the entire spoils of victory, and they had thus the most powerful motive to keep the state perpetually involved in war, to the utter impoverishment and oppression of the people. After resisting the abuse of power, by all peaceable means, and the oppression becoming intolerable, the people at last withdrew from the city; they, in a word, seceded; and, to induce them to reunite, the patricians conceded to the plebeians, as the means of protecting their separate interests, the very power which he contended is necessary to protect the rights of the States, but which is now represented as necessarily leading to disunion. They granted to the people the right of choosing three tribunes from among themselves, whose persons should be sacred, and who should have the right of interposing their veto, not only against the passage of laws, but even against their execution; a power which those who take a shallow insight into human nature would pronounce inconsistent with the strength and unity of the state, if not utterly impracticable. Yet, so far from that being the effect, from that day the genius of Rome became ascendant, and victory followed her steps till she had established an almost universal dominion.

"How can a result so contrary to all anticipation be explained? The explanation appeared to him to be simple. No measure or movement could be adopted without the concurring consent of both the patricians and plebeians, and each thus became dependent on the other, and, of consequence, the desire and objects of neither could be effected without the concurrence of the other. To obtain this concurrence, each was compelled to consult the good will of the other, and to elevate to office not simply those who might have the confidence of the order to which he belonged, but also that of the other. The result was, that men possessing those qualities which would naturally command confidence, moderation, wisdom, justice, and patriotism, were elevated to office; and these, by the weight of their authority and the prudence of their counsel, together with that spirit of unanimity necessarily resulting from the concurring assent of the two orders, furnishes the real explanation of the power of the Roman state, and of that extraordinary wisdom, moderation, and firmness, which in so remarkable a

degree characterized her public men. He might illustrate the truth of the position which he had laid down, by a reference to the history of all free states, ancient and modern, distinguished for their power and patriotism; and conclusively show not only that there was not one which had not some contrivance, under some form, by which the concurring assent of the different portions of the community was made necessary in the action of government, but also that the virtue, patriotism, and strength of the state were in direct proportion to the strength of the means of securing such assent. In estimating the operation of this principle in our system, which depends, as he had stated, on the right of interposition on the part of the State, we must not omit to take into consideration the amending power, by which new powers may be granted, or any derangement of the system be corrected, by the concurring assent of three-fourths of the States; and thus, in the same degree, strengthening the power of repairing any derangement occasioned by the executive action of a State. In fact, the power of interposition, fairly understood, may be considered in the light of an appeal against the usurpations of the general government, the joint agent of all the States, to the States themselves, to be decided, under the amending power, affirmatively, in favor of the government, by the voice of three-fourths of the States, as the highest power known under the system.

"Mr. C. said that he knew the difficulty, in our country, of establishing the truth of the principle for which he contended, though resting upon the clearest reason, and tested by the universal experience of free nations. He knew that the governments of the several States would be cited as an argument against the conclusion to which he had arrived, and which, for the most part, were constructed on the principle of the absolute majority; but, in his opinion, a satisfactory answer could be given; that the objects of expenditure which fell within the sphere of a State government were few and inconsiderable; so that, be their action ever so irregular, it could occasion but little derangement. If, instead of being members of this great confederacy, they formed distinct communities, and were compelled to raise armies, and incur other expenses necessary for their defence, the laws which he had laid down as necessarily controlling the action of a State, where the will of an absolute and unchecked majority prevailed, would speedily disclose themselves in faction, anarchy, and corruption. Even as the case is, the operation of the causes to which he had referred were perceptible in some of the larger and more populous members of the Union, whose governments had a powerful central action, and which already showed a strong tendency to that moneyed action which is the invariable forerunner of corruption and convulsions.

"But to return to the general government; we have now sufficient experience to ascertain that the tendency to conflict in this action is between Southern and other sections. The latter, having a decided majority, must habitually be possessed of the powers of the government, both in this and in the other House; and, being governed by that instinctive love of power so natural to the human breast, they must become the advocates of the power of government, and in the same degree opposed to the limitations; while the other and weaker section is as necessarily thrown on the side of the limitations. In one word, the one section is the natural guardian of the delegated powers, and the other of the reserved; and the struggle on the side of the former will be to enlarge the powers, while that on the opposite side will be to restrain them within their constitutional limits. The contest will, in fact, be a contest between power and liberty, and such he considered the present; a contest in which the weaker section, with its peculiar labor, productions, and situation, has at stake all that can be dear to freemen. Should they be able to maintain in their full vigor their reserved rights, liberty and prosperity will be their portion; but if they yield, and permit the stronger interest to consolidate within itself all the powers of the government, then will its fate be more wretched than that of the aborigines whom they have expelled, or of their slaves. In this great struggle between the delegated and reserved powers, so far from repining that his lot and that of those whom he represented is cast on the side of the latter, he rejoiced that such is the fact; for though we participate in but few of the advantages of the government, we are compensated, and more than compensated, in not being so much exposed to its corruption. Nor did he repine that the duty, so difficult to be discharged, as the defence of the reserved powers against, apparently, such fearful odds, had been assigned to them. To discharge successfully this high duty requires the highest qualities, moral and intellectual; and, should you perform it with a zeal and ability in proportion to its magnitude, instead of being mere planters, our section will become distinguished for its patriots and statesmen. But, on the other hand, if we prove unworthy of this high destiny, if we yield to the steady encroachment of power, the severest and most debasing calamity and corruption will overspread the land. Every Southern man, true to the interests of his section, and faithful to the duties which Providence has allotted him, will be for ever excluded from the honors and emoluments of this government, which will be reserved for those only who have qualified themselves, by political prostitution, for admission into the Magdalen Asylum."

In this extract from that remarkable speech, the first one in which Mr. Calhoun defended nullification and secession in the Senate, and in which every word bears the impress of intense thought, there is distinctly to be seen his opin-

ion of the defects of our duplicate form of government (State and federal), and of the remedy for those defects. I say, in our form of government; for his speech had a practical application to ourselves, and was a defence, or justification of the actual measures of the State he represented. And this defect was, *the unchecked authority of a majority;* and the remedy was, *an authority in the minority to check that majority, and to secede.* This clearly was an absolute condemnation of the fundamental principle upon which the administration of the federal constitution, and of the State constitutions rested. But he did not limit himself to the benefits of the *veto* and of *secession*, as shown in Roman history; he had recourse to the Jewish for the same purpose—and found it—not in a *veto* in each of the twelve tribes, but in the right of secession; and found it, not in the minority, but the majority, in the reign of Jeroboam, when ten tribes seceded. That example is thus introduced:

"Among the few exceptions in the Asiatic nations, the government of the twelve tribes of Israel, in its early period, was the most striking. Their government, at first, was a mere confederation, without any central power, till a military chieftain, with the title of king, was placed at its head, without, however, merging the original organization of the twelve distinct tribes. This was the commencement of that central action among that peculiar people, which, in three generations, terminated in a permanent division of their tribes. It is impossible even for a careless reader to peruse the history of that event without being forcibly struck with the analogy in the causes which led to their separation, and those which now threaten us with a similar calamity. With the establishment of the central power in the king commenced a system of taxation, which, under king Solomon, was greatly increased, to defray the expense of rearing the temple, of enlarging and embellishing Jerusalem, the seat of the central government, and the other profuse expenditures of his magnificent reign. Increased taxation was followed by its natural consequences—discontent and complaint, which before his death began to excite resistance. On the succession of his son, Rehoboam, the ten tribes, headed by Jeroboam, demanded a reduction of the taxes; the temple being finished, and the embellishment of Jerusalem completed, and the money which had been raised for that purpose being no longer required, or, in other words, the debt being paid, they demanded a reduction of the duties—a repeal of the tariff. The demand was taken under consideration, and, after consulting the old men (the counsellors of '98), who advised a reduction, he then took the opinion of the younger politicians, who had since grown up, and knew not the doctrines of their fathers. He hearkened unto their counsel, and refused to make the reduction; and the secession of the ten tribes, under Jeroboam, followed. The tribes of Judah and Benjamin, which had received the disbursements, alone remained to the house of David."

This example also had a practical application, and a squint at the Virginia resolutions of '98-'99, and at the military chieftain then at the head of our government, with a broad intimation of what was to happen if the taxes were not reduced; and that happened to be *secession.* And all this, and the elaborate speech from which it is taken, and many others of the same character at the same time, was delivered at a time when the elections had decided for a reduction of the taxes—when a bill in the House was under consideration for that purpose—and when his own "compromise" bill was in a state of concoction, and advanced to a stage to assure its final passing. Strong must have been Mr. Calhoun's desire for his favorite remedy, when he could contend for it under such circumstances—under circumstances which showed that it could not be wanted for the purpose which he then avowed. Satisfied of the excellence, and even necessity in our system, of this remedy, the next question was to create it, or to find it; create it, by an amendment to the constitution; or find it already existing there; and this latter was done by a new reading of the famous Virginia resolutions of '98-'99. The right in any State to arrest an act of Congress, and to stay it until three fourths of the States ordered it to proceed, and with a right forcibly to resist if any attempt was made in the mean time to enforce it, with the correlative right of secession and permanent separation, were all found by him in these resolutions—the third especially, which was read, and commented upon for the purpose. Mr. Rives, of Virginia, repulsed that interpretation of the act of his State, and showed that an appeal to public opinion was all that was intended; and quoted the message of Governor Monroe to show that the judgment of the federal court, under one of the acts declared to be unconstitutional, was carried into effect in the capital of Virginia with the order and tranquillity of any other judgment. He said:

"But, sir, the proceedings of my State, on another occasion of far higher importance, have

been so frequently referred to, in the course of this debate, as an example to justify the present proceedings of South Carolina, that I may be excused for saying something of them. What, then, was the conduct of Virginia, in the memorable era of '98 and '99? She solemnly protested against the alien and sedition acts, as 'palpable and alarming infractions of the constitution;' she communicated that protest to the other States of the Union, and earnestly appealed to them to unite with her in a like declaration, that this deliberate and solemn expression of the opinion of the States, as parties to the constitutional compact, should have its proper effect on the councils of the nation, in procuring a revision and repeal of the obnoxious acts. This was 'the head and front of her offending'—no more. The whole object of the proceedings was, by the peaceful force of public opinion, embodied through the organ of the State legislatures, to obtain a repeal of the laws in question, not to oppose or arrest their execution, while they remained unrepealed. That this was the true spirit and real purpose of the proceeding, is abundantly manifested by the whole of the able debate which took place in the legislature of the State, on the occasion. All the speakers, who advocated the resolutions which were finally adopted, distinctly placed them on that legitimate, constitutional ground. I need only refer to the emphatic declaration of John Taylor, of Caroline, the distinguished mover and able champion of the resolutions. He said 'the appeal was to public opinion; if that is against us, we must yield.' The same sentiment was avowed and maintained by every friend of the resolutions, throughout the debate.

"But, sir, the real intentions and policy of Virginia were proved, not by declarations and speeches merely, but by facts. If there ever was a law odious to a whole people, by its daring violation of the fundamental guaranties of public liberty, the freedom of speech and freedom of the press, it was the sedition law to the people of Virginia. Yet, amid all this indignant dissatisfaction, after the solemn protest of the legislature, in '98, and the renewal of that protest, in '99, this most odious and arbitrary law was peaceably carried into execution, in the capital of the State, by the prosecution and punishment of Callender, who was fined and imprisoned for daring to canvass the conduct of our public men (as Lyon and Cooper had been elsewhere), and was still actually imprisoned, when the legislature assembled, in December, 1800. Notwithstanding the excited sensibility of the public mind, no popular tumult, no legislative interference, disturbed, in any manner, the full and peaceable execution of the law. The Senate will excuse me, I trust, for calling their attention to a most forcible commentary on the true character of the Virginia proceedings of '98 and '99 (as illustrated in this transaction), which was contained in the official communication of Mr. Monroe, then Governor of the State, to the legislature, at its assembling, in December, 1800. After referring to the distribution which had been ordered to be made among the people, of Mr. Madison's celebrated report, of '99, he says 'In connection with this subject, it is proper to add, that, since your last session, the sedition law, one of the acts complained of, has been carried into effect, in this commonwealth, by the decision of a federal court. I notice this event, not with a view of censuring or criticising it. The transaction has gone to the world, and the impartial will judge of it as it deserves. I notice it for the purpose of remarking that the decision was executed with the same order and tranquil submission, on the part of the people, as could have been shown by them, on a similar occasion, to any the most necessary, constitutional, and popular acts of the government.'"

Mr. Webster, in denying the derivation of nullification and secession from the constitution, said:

"The constitution does not provide for events which must be preceded by its own destruction. Secession, therefore, since it must bring these consequences with it, is revolutionary. And nullification is equally revolutionary. What is revolution? Why, sir, that is revolution which overturns, or controls, or successfully resists the existing public authority; that which arrests the exercise of the supreme power; that which introduces a new paramount authority into the rule of the state. Now, sir, this is the precise object of nullification. It attempts to supersede the supreme legislative authority. It arrests the arm of the Executive Magistrate. It interrupts the exercise of the accustomed judicial power. Under the name of an ordinance, it declares null and void, within the State, all the revenue laws of the United States. Is not this revolutionary? Sir, so soon as this ordinance shall be carried into effect, a revolution will have commenced in South Carolina. She will have thrown off the authority to which her citizens have, heretofore, been subject. She will have declared her own opinions and her own will to be above the laws, and above the power of those who are intrusted with their administration. If she makes good these declarations, she is revolutionized. As to her, it is as distinctly a change of the supreme power as the American Revolution, of 1776. That revolution did not subvert government, in all its forms. It did not subvert local laws and municipal administrations. It only threw off the dominion of a power claiming to be superior, and to have a right, in many important respects, to exercise legislative authority. Thinking this authority to have been usurped or abused, the American colonies, now the United States, bade it defiance, and freed themselves from it, by means of a revolution. But that revolution left them with their own municipal laws still, and the forms of local government. If Carolina now shall effectually

resist the laws of Congress—if she shall be her own judge, take her remedy into her own hands, obey the laws of the Union when she pleases, and disobey them when she pleases—she will relieve herself from a paramount power, as distinctly as did the American colonies, in 1776. In other words, she will achieve, as to herself, a revolution."

The speaker then proceeded to show what nullification was, as reduced to practice in the ordinance, and other proceedings of South Carolina; and said:

"But, sir, while practical nullification in South Carolina would be, as to herself, actual and distinct revolution, its necessary tendency must also be to spread revolution, and to break up the constitution, as to all the other States. It strikes a deadly blow at the vital principle of the whole Union. To allow State resistance to the laws of Congress to be rightful and proper, to admit nullification in some States, and yet not expect to see a dismemberment of the entire government, appears to me the wildest illusion and the most extravagant folly. The gentleman seems not conscious of the direction or the rapidity of his own course. The current of his opinions sweeps him along, he knows not whither. To begin with nullification, with the avowed intent, nevertheless, not to proceed to secession, dismemberment, and general revolution, is as if one were to take the plunge of Niagara, and cry out that he would stop halfway down. In the one case, as in the other, the rash adventurer must go to the bottom of the dark abyss below, were it not that that abyss has no discovered bottom.

"Nullification, if successful, arrests the power of the law, absolves citizens from their duty, subverts the foundation both of protection and obedience, dispenses with oaths and obligations of allegiance, and elevates another authority to supreme command. Is not this revolution? And it raises to supreme command four-and-twenty distinct powers, each professing to be under a general government, and yet each setting its laws at defiance at pleasure. Is not this anarchy, as well as revolution? Sir, the constitution of the United States was received as a whole, and for the whole country. If it cannot stand altogether, it cannot stand in parts; and, if the laws cannot be executed every where, they cannot long be executed any where. The gentleman very well knows that all duties and imposts must be uniform throughout the country. He knows that we cannot have one rule or one law for South Carolina, and another for other States. He must see, therefore, and does see—every man sees—that the only alternative is a repeal of the laws throughout the whole Union, or their execution in Carolina as well as elsewhere. And this repeal is demanded, because a single State interposes her veto, and threatens resistance! The result of the gentleman's opinions, or rather the very text of his doctrine, is, that no act of Congress can bind all the States, the constitutionality of which is not admitted by all; or, in other words, that no single State is bound, against its own dissent, by a law of imposts. This was precisely the evil experienced under the old confederation, and for remedy of which this constitution was adopted. The leading object in establishing this government, an object forced on the country by the condition of the times, and the absolute necessity of the law, was to give to Congress power to lay and collect imposts without the consent of particular States. The revolutionary debt remained unpaid; the national treasury was bankrupt; the country was destitute of credit; Congress issued its requisitions on the States, and the States neglected them; there was no power of coercion but war; Congress could not lay imposts, or other taxes, by its own authority; the whole general government, therefore, was little more than a name. The articles of confederation, as to purposes of revenue and finance, were nearly a dead letter. The country sought to escape from this condition, at once feeble and disgraceful, by constituting a government which should have power of itself to lay duties and taxes, and to pay the public debt, and provide for the general welfare; and to lay these duties and taxes in all the States, without asking the consent of the State goverments. This was the very power on which the new constitution was to depend for all its ability to do good; and, without it, it can be no government, now or at any time. Yet, sir, it is precisely against this power, so absolutely indispensable to the very being of the government, that South Carolina directs her ordinance. She attacks the government in its authority to raise revenue, the very mainspring of the whole system; and, if she succeed, every movement of that system must inevitably cease. It is of no avail that she declares that she does not resist the law as a revenue law, but as a law for protecting manufactures. It is a revenue law; it is the very law by force of which the revenue is collected; if it be arrested in any State, the revenue ceases in that State; it is, in a word, the sole reliance of the government for the means of maintaining itself and performing its duties."

Mr. Webster condensed into four brief and pointed propositions his opinion of the nature of our federal government, as being a UNION in contradistinction to a LEAGUE, and as acting upon INDIVIDUALS in contradistinction to STATES, and as being, in these features discriminated from the old confederation.

"1. That the constitution of the United States is not a league, confederacy, or compact, between the people of the several States in their sovereign capacities; but a government proper,

founded on the adoption of the people, and creating direct relations between itself and individuals.

"2. That no State authority has power to dissolve these relations; that nothing can dissolve them but revolution; and that, consequently, there can be no such thing as secession without revolution.

"3. That there is a supreme law, consisting of the constitution of the United States, acts of Congress passed in pursuance of it, and treaties; and that, in cases not capable of assuming the character of a suit in law or equity, Congress must judge of, and finally interpret, this supreme law, so often as it has occasion to pass acts of legislation; and, in cases capable of assuming, and actually assuming, the character of a suit, the Supreme Court of the United States is the final interpreter.

"4. That an attempt by a State to abrogate, annul, or nullify an act of Congress, or to arrest its operation within her limits, on the ground that, in her opinion, such law is unconstitutional, is a direct usurpation on the just powers of the general government, and on the equal rights of other States; a plain violation of the constitution, and a proceeding essentially revolutionary in its character and tendency."

Mr. Webster concluded his speech, an elaborate and able one, in which he appeared in the high character of patriot still more than that of orator, in which he intimated that some other cause, besides the alleged one, must be at the bottom of this desire for secession. He was explicit that the world could hardly believe in such a reason, and that we ourselves who hear and see all that is said and done, could not believe it. He concluded thus:

"Sir, the world will scarcely believe that this whole controversy, and all the desperate measures which its support requires, have no other foundation than a difference of opinion, upon a provision of the constitution, between a majority of the people of South Carolina, on one side, and a vast majority of the whole people of the United States on the other. It will not credit the fact, it will not admit the possibility, that, in an enlightened age, in a free, popular republic, under a government where the people govern, as they must always govern, under such systems, by majorities, at a time of unprecedented happiness, without practical oppression, without evils, such as may not only be pretended, but felt and experienced; evils not slight or temporary, but deep, permanent, and intolerable; a single State should rush into conflict with all the rest, attempt to put down the power of the Union by her own laws, and to support those laws by her military power, and thus break up and destroy the world's last hope. And well the world may be incredulous. We, who hear and see it, can ourselves hardly yet believe it. Even after all that had preceded it, this ordinance struck the country with amazement. It was incredible and inconceivable, that South Carolina should thus plunge headlong into resistance to the laws, on a matter of opinion, and on a question in which the preponderance of opinion, both of the present day and of all past time, was so overwhelmingly against her. The ordinance declares that Congress has exceeded its just power, by laying duties on imports, intended for the protection of manufactures. This is the opinion of South Carolina; and on the strength of that opinion she nullifies the laws. Yet has the rest of the country no right to its opinions also? Is one State to sit sole arbitress? She maintains that those laws are plain, deliberate, and palpable violations of the constitution; that she has a sovereign right to decide this matter; and, that, having so decided, she is authorized to resist their execution, by her own sovereign power; and she declares that she will resist it, though such resistance should shatter the Union into atoms."

Mr. Davis, of Massachusetts, had been still more explicit, in the expression of the belief already given (in the extract from his speech contained in this work), that the discontent in South Carolina had a root deeper than that of the tariff; and General Jackson intimated the same thing in his message to the two Houses on the South Carolina proceedings, and in which he alluded to the ambitious and personal feelings which might be involved in them. Certainly it was absolutely incomprehensible that this doctrine of nullification and secession, prefigured in the Roman secession to the sacred mount, and the Jewish disruption of the twelve tribes, should be thus enforced, and impressed, for that cause of the tariff alone; when, to say nothing of the intention of the President, the Congress and the country to reduce it, Mr. Calhoun himself had provided for its reduction, satisfactorily to himself, in the act called a "compromise;" to which he was a full contracting party. It was impossible to believe in the soleness of that reason, in the presence of circumstances which annulled it; and Mr. Calhoun himself, in a part of his speech which had been quoted, seemed to reveal a glimpse of two others—slavery, about which there was at that time no agitation—and the presidency, to which patriotic Southern men could not be elected. The glimpse exhibited of the first of these causes, was in this sentence: "*The contest* (between the North and the South) *will, in fact, be a contest between power*

and liberty, and such he considered the present; a contest in which the weaker section, with its peculiar labor, productions and situation, has at stake all that is dear to freemen." Here is a distinct declaration that there was then a contest between the two sections of the Union, and that that contest was between power and liberty, in which the freedom and the slave property of the South were at stake. This declaration at the time attracted but little attention, there being then no sign of a slavery agitation; but to close observers it was an ominous revelation of something to come, and an apparent laying an anchor to windward for a new agitation on a new subject, after the tariff was done with. The second intimation which he gave out, and which referred to the exclusion of the patriotic men of the South from the presidency was in this sentence: "*Every Southern man, true to the interests of his section, and faithful to the duties which Providence has allotted him, will be forever excluded from the honors and emoluments of this government, which will be reserved for those only who have qualified themselves, by political prostitution, for admission into the Magdalen asylum.*" This was bitter; and while revealing his own feelings at the prospect of his own failure for the presidency (which from the brightness of the noon-day sun was dimning down to the obscurity of dark night), was, at the same time, unjust, and contradicted by all history, previous and subsequent, of our national elections; and by his own history in connection with them. The North had supported Southern men for President—a long succession of them—and even twice concurred in dropping a Northern President at the end of a single term, and taking a Southern in his place He himself had had signal proofs of good will from the North in his two elections to the vice-presidency; in which he had been better supported in the North than in the South, getting the whole party vote in the former while losing part of it in the latter. It was evident then, that the protective tariff was not the sole, or the main cause of the South Carolina discontent; that nullification and secession were to continue, though their ostensible cause ceased; that resistance was to continue on a new ground, upon the same principle, until a new and impossible point was attained. This was declared by Mr. Calhoun in his place, on the day of the passage of the "compromise" bill, and on hearing that the "force bill" had finally passed the House of Representatives. He then stood up, and spoke thus:

"He had said, that as far as this subject was concerned, he believed that peace and harmony would follow. But there is another connected with it, which had passed this House, and which had just been reported as having passed the other which would prevent the return of quiet. He considered the measure to which he referred as a virtual repeal of the constitution; and, in fact, worse than a positive and direct repeal; as it would leave the majority without any shackles on its power, while the minority, hoping to shelter itself under its protection, and having still some respect left for the instrument, would be trammelled without being protected by its provisions. It would be idle to attempt to disguise that the bill will be a practical assertion of one theory of the constitution against another—the theory advocated by the supporters of the bill, that ours is a consolidated government, in which the States have no rights, and in which, in fact, they bear the same relation to the whole community as the counties do to the States; and against that view of the constitution which considers it as a compact formed by the States as separate communities, and binding between the States, and not between the individual citizens. No man of candor, who admitted that our constitution is a compact, and was formed and is binding in the manner he had just stated, but must acknowledge that this bill utterly overthrows and prostrates the constitution; and that it leaves the government under the control of the will of an absolute majority.

"If the measure be acquiesced in, it will be the termination of that long controversy which began in the convention, and which has been continued under various fortunes until the present day. But it ought not—it will not—it cannot be acquiesced in—unless the South is dead to the sense of her liberty, and blind to those dangers which surround and menace them; she never will cease resistance until the act is erased from the statute book. To suppose that the entire power of the Union may be placed in the hands of this government, and that all the various interests in this widely extended country may be safely placed under the will of an unchecked majority, is the extreme of folly and madness. The result would be inevitable, that power would be exclusively centered in the dominant interest north of this river, and that all the south of it would be held as subjected provinces, to be controlled for the exclusive benefit of the stronger section. Such a state of things could not endure; and the constitution and liberty of the country would fall in the contest, if permitted to continue.

"He trusted that that would not be the case, but that the advocates of liberty every where,

as well in the North as in the South; that those who maintained the doctrines of '98, and the sovereignties of the States; that the republican party throughout the country would rally against this attempt to establish, by law, doctrines which must subvert the principles on which free institutions could be maintained."

Here was a new departure, upon a new point, as violent as the former complaint, looking to the same remedy, and unfounded and impossible. This force bill, which was a repeal of the constitution, in the eyes of Mr. Calhoun, was a mere revival of formerly existing statutes, and could have no operation, if resistance to the tariff laws ceased. Yet, nullification and secession were to proceed until it was erased from the statute book; and all the morbid views of the constitution, and of the Virginia resolutions of '98 and '99, were to hold their places in Mr. Calhoun's imagination, and dominate his conduct in all his political action, until this statute was erased. But it is due to many of his friends and followers, to say that, while concurring in his complaints against the federal government, and in his remedies, they dissented from his source of derivation of these remedies. He found them in the constitution, shown to be there by the '98-'99 Virginia resolutions; the manly sense of McDuffie, and some others, rejected that sophistry, and found their justification wholly in the revolutionary right of self-defence from intolerable oppression.

CHAPTER LXXXV.

SECRET HISTORY OF THE "COMPROMISE" OF 1833.

Mr. Calhoun and Mr. Clay were early, and long, rival aspirants for the Presidency, and antagonistic leaders in opposite political systems; and the coalition between them in 1833 was only a hollow truce (embittered by the humiliations to which Mr. Calhoun was subjected in the protective features of the "compromise") and only kept alive for a few years by their mutual interest with respect to General Jackson and Mr. Van Buren. A rupture was foreseen by every observer; and in a few years it took place, and in open Senate, and in a way to give the key to the secret motives which led to that compromise. It became a question between them which had the upper hand of the other—in their own language—which was master of the other—on that occasion. Mr. Calhoun declared that he had Mr. Clay down—had him on his back—was his master. Mr. Clay retorted: He my master! I would not own him for the meanest of my slaves. Of course, there were calls to order about that time; but the question of mastery, and the causes which produced the passage of the act, were still points of contestation between them, and came up for altercation in other forms. Mr. Calhoun claimed a controling influence for the military attitude of South Carolina, and its intimidating effect upon the federal government. Mr. Clay ridiculed this idea of intimidation, and said the little boys that muster in the streets with their tiny wooden swords, had as well pretend to terrify the grand army of Bonaparte: and afterwards said he would tell how it happened, which was thus: His friend from Delaware (Mr. John M. Clayton), said to him one day—these South Carolinians act very badly, but they are good fellows, and it is a pity to let Jackson hang them. This was after Mr. Clay had brought in his bill, and while it lingered without the least apparent chance of passing—paralyzed by the vehement opposition of the manufacturers: and he urged Mr. Clay to take a new move with his bill—to get it referred to a committee—and by them got into a shape in which it could pass. Mr. Clay did so—had the reference made—and a committee appointed suitable for the measure—some of strong will, and earnest for the bill, and some of gentle temperament, inclined to easy measures on hard occasions. They were: Messrs. Clay, Calhoun, Clayton, Dallas, Grundy, Rives.

This was the movement, and the inducing cause on one side: now for the cause on the other. Mr. Letcher, a representative from Kentucky, was the first to conceive an idea of some compromise to release South Carolina from her position; and communicated it to Mr. Clay; who received it at first coolly and doubtfully. Afterwards, beginning to entertain the idea, he mentioned it to Mr. Webster, who repulsed it entirely, saying—"It would be yielding great principles to faction; and that the time had come to test the strength of the constitution and the government." After that he was no more consulted. Mr. Clay drew up his bill, and

sent it to Mr. Calhoun through Mr. Letcher—he and Mr. Calhoun not being on speaking terms. He objected decidedly to parts of the bill; and said, if Mr. Clay knew his reasons, he certainly would yield the objectionable parts. Mr. Letcher undertook to arrange an interview;—which was effected—to take place in Mr. Clay's room. The meeting was cold, distant and civil. Mr. Clay rose, bowed to his visitor, and asked him to take a seat. Mr. Letcher, to relieve the embarrassment, immediately opened the business of the interview: which ended without results. Mr. Clay remained inflexible, saying that if he gave up the parts of the bill objected to, it could not be passed; and that it would be better to give it up at once. In the mean time Mr. Letcher had seen the President, and sounded him on the subject of a compromise: the President answered, he would have no negotiation, and would execute the laws. This was told by Mr. Letcher to Mr. McDuffie, to go to Mr. Calhoun. Soon after, Mr. Letcher found himself required to make a direct communication to Mr. Calhoun. Mr. Josiah S. Johnson, senator from Louisiana, came to his room in the night, after he had gone to bed—and informed him of what he had just learnt:—which was, that General Jackson would admit of no further delay, and was determined to take at once a decided course with Mr. Calhoun (an arrest and trial for high treason being understood). Mr. Johnson deemed it of the utmost moment that Mr. Calhoun should be instantly warned of his danger; and urged Mr. Letcher to go and apprise him. He went—found Mr. Calhoun in bed—was admitted to him—informed him. "He was evidently disturbed." Mr. Letcher and Mr. Clay were in constant communication with Mr. Clayton.

After the committee had been appointed, Mr. Clayton assembled the manufacturers, for without their consent nothing could be done; and in the meeting with them it was resolved to pass the bill, provided the Southern senators, including the nullifiers, should vote both for the amendments which should be proposed, and for the passage of the bill itself—the amendments being the same afterwards offered in the Senate by Mr. Clay, and especially the home valuation feature. When these amendments, thus agreed upon by the friends of the tariff, were proposed in the committee, they were voted down; and not being able to agree upon any thing, the bill was carried back to the senate without alteration. But Mr. Clayton did not give up. Moved by a feeling of concern for those who were in peril, and for the state of the country, and for the safety of the protective system of which he was the decided advocate, he determined to have the same amendments, so agreed upon by the friends of the tariff and rejected by the committee, offered in the Senate; and, to help Mr. Clay with the manufacturers, he put them into his hands to be so offered—notifying Mr. Calhoun and Mr. Clay that unless the amendments were adopted, and that by the Southern vote, every nullifier inclusively, that the bill should not pass—that he himself would move to lay it on the table. His reasons for making the nullification vote a *sine qua non* both on the amendments and on the bill, and for them all, separately and collectively, was to cut them off from pleading their unconstitutionality after they were passed; and to make the authors of disturbance and armed resistance, after resistance, parties upon the record to the measures, and every part of the measures, which were to pacify them. Unless these leaders were thus bound, he looked upon any pacification as a hollow truce, to be succeeded by some new disturbance in a short time; and therefore he was peremptory with both Mr. Clay and Mr. Calhoun, denouncing the sacrifice of the bill if his terms were not complied with; and letting them know that he had friends enough bound to his support. They wished to know the names of the senators who were to stand by him in this extreme course—which he refused to give; no doubt restrained by an injunction of secrecy, there being many men of gentle temperaments who are unwilling to commit themselves to a measure until they see its issue, that the eclat of success may consecrate what the gloom of defeat would damn. Being inexorable in his claims, Mr. Clay and Mr. Calhoun agreed to the amendments, and all voted for them, one by one, as Mr. Clay offered them, until it came to the last—that revolting measure of the home valuation. As soon as it was proposed, Mr. Calhoun and his friends met it with violent opposition, declaring it to be unconstitutional, and an insurmountable obstacle to their votes for the bill if put into it. It was then late in the day, and the last day but one of the session, and Mr. Clayton found himself in the predicament which required the execu-

tion of his threat. He executed it, and moved to lay it on the table, with the declaration that it was to lie there. Mr. Clay went to him and besought him to withdraw the motion; but in vain. He remained inflexible; and the bill then appeared to be dead. In this extremity, the Calhoun wing retired to the colonnade behind the Vice-President's chair, and held a brief consultation among themselves: and presently Mr. Bibb, of Kentucky, came out, and went to Mr. Clayton and asked him to withdraw his motion to give him time to consider the amendment. Seeing this sign of yielding, Mr. Clayton withdrew his motion—to be renewed if the amendment was not voted for. A friend of the parties immediately moved an adjournment, which was carried; and that night's reflections brought them to the conclusion that the amendment must be passed; but still with the belief, that, there being enough to pass it without him, Mr. Calhoun should be spared the humiliation of appearing on the record in its favor. This was told to Mr. Clayton, who declared it to be impossible—that Mr. Calhoun's vote was indispensable, as nothing would be considered secured by the passage of the bill unless his vote appeared for every amendment separately, and for the whole bill collectively. When the Senate met, and the bill was taken up, it was still unknown what he would do; but his friends fell in, one after the other, yielding their objections upon different grounds, and giving their assent to this most flagrant instance (and that a new one), of that protective legislation, against which they were then raising troops in South Carolina! and limiting a day, and that a short one, on which she was to be, *ipso facto*, a seceder from the Union. Mr. Calhoun remained to the last, and only rose when the vote was ready to be taken, and prefaced a few remarks with the very notable declaration that he had then to "determine" which way he would vote. He then declared in favor of the amendment, but upon conditions which he desired the reporters to note; and which being futile in themselves, only showed the desperation of his condition, and the state of impossibility to which he was reduced. Several senators let him know immediately the futility of his conditions; and without saying more, he voted on ayes and noes for the amendment; and afterwards for the whole bill. And this concluding scene appears quite correctly reported in the authentic debates. And thus the question of mastery in this famous "compromise," mooted in the Senate by Mr. Clay and Mr. Calhoun as a problem between themselves, is shown by the inside view of this bit of history, to belong to neither of them, but to Mr. John M. Clayton, under the instrumentality of Gen. Jackson, who, in the presidential election, had unhorsed Mr. Clay and all his systems; and, in his determination to execute the laws upon Mr Calhoun, had left him without remedy, except in the resource of this "compromise." Upon the outside history of this measure which I have compiled, like a chronicler, from the documentary materials, Mr. Calhoun and Mr. Clay appear as master spirits, appeasing the storm which they had raised; on the inside view they appear as subaltern agents dominated by the necessities of their condition, and providing for themselves instead of their country—Mr. Clay, in saving the protective policy, and preserving the support of the manufacturers; and Mr. Calhoun, in saving himself from the perils of his condition: and both, in leaving themselves at liberty to act together in future against General Jackson and Mr. Van Buren.

CHAPTER LXXXVI.

COMPROMISE LEGISLATION; AND THE ACT, SO CALLED, OF 1833.

This is a species of legislation which wears a misnomer—which has no foundation in the constitution—and which generally begets more mischief than it assumes to prevent; and which, nevertheless, is very popular—the name, though fictitious, being generally accepted for the reality. There are compromises in the constitution, founded upon what gives them validity, namely, mutual consent; and they are sacred. All compromises are agreements, made voluntarily by independent parties—not imposed by one upon another. They may be made by compact—not by votes. The majority cannot subject the minority to its will, except in the present decision—cannot bind future Congresses—cannot claim any sanctity for their acts beyond that which grows out of the circumstances in which they originate, and which address themselves to the

moral sense of their successors, and to reasons of justice or policy which should exempt an act from the inherent fate of all legislation. The act of 1820, called the Missouri Compromise, is one of the most respectable and intelligible of this species of legislation. It composed a national controversy, and upon a consideration. It divided a great province, and about equally, between slaveholding and non-slaveholding States. It admitted a State into the Union; and that State accepted that admission upon the condition of fidelity to that compromise. And being founded in the material operation of a line drawn upon the earth under an astronomical law, subject to no change and open to all observation, visible and tangible, it became an object susceptible of certainty, both in its breach and in its observance. That act is entitled to respect, especially from the party which imposed it upon the other; and has been respected; for it has remained inviolate for thirty years—neither side attempting to break or abolish it—each having the advantage of it—and receiving all the while, like the first *magna charta*, many confirmations from successive Congresses, and from State legislatures.

The act of 1833, called a "compromise," was a breach of all the rules, and all the principles of legislation—concocted out of doors, managed by politicians dominated by an outside interest—kept a secret—passed by a majority pledged to its support, and pledged against any amendment except from its managers;—and issuing from the conjunction of rival politicians who had lately, and long, been in the most violent state of legislative as well as political antagonism. It comprised every title necessary to stamp a vicious and reprehensible act—bad in the matter—foul in the manner—full of abuse—and carried through upon the terrors of some, the interests of others, the political calculations of many, and the dupery of more; and all upon a plea which was an outrage upon representative government—upon the actual government—and upon the people of the States. That plea was, that the elections (presidential and congressional), had decided the fate of the protective system—had condemned it—had sentenced it to death—and charged a new Congress with the execution of the sentence; and, therefore, that it should be taken out of the hands of that new Congress, withdrawn from it before it met—and laid away for nine years and a half under the sanction of a, so called, compromise—intangible to the people—safe in its existence during all that time; and trusting to the chapter of accidents, and the skill of management, for its complete restoration at the end of the term. This was an outrage upon popular representation—an estoppel upon the popular will—the arrest of a judgment which the people had given—the usurpation of the rights of ensuing Congresses. It was the conception of some rival politicians who had lately distracted the country by their contention, and now undertook to compose it by their conjunction; and having failed in the game of agitation, threw it up for the game of pacification; and, in this new character, undertook to settle and regulate the affairs of their country for a term only half a year less than the duration of the siege of Troy; and long enough to cover two presidential elections. This was a bold pretension. Rome had existed above five hundred years, and citizens had become masters of armies, and the people humbled to the cry of *panem et circenses*—bread and the circus—before two or three rivals could go together in a corner, and arrange the affairs of the republic for five years: now this was done among us for double that time, and in the forty-fourth year of our age, and by citizens neither of whom had headed, though one had raised, an army. And now how could this be effected, and in a country so vast and intelligent? I answer: The inside view which I have given of the transaction explains it. It was an operation upon the best, as well as upon the worst feelings of our nature—upon the patriotic alarms of many, the political calculations of others, the interested schemes of more, and the proclivity of multitudes to be deceived. Some political rivals finding tariff no longer available for political elevation, either in its attack or defence; and, from a ladder to climb on, become a stumbling-block to fall over, and a pit to fall into, agree to lay it aside for the term of two presidential elections; upon the pretext of quieting the country which they had been disturbing; but in reality to get the crippled hobby out of the way, and act in concert against an old foe in power, and a new adversary, lately supposed to have been killed off, but now appearing high in the political firmament, and verging to its zenith. That new adversary was Mr. Van Buren,

just elected Vice-President, and in the line of old precedents for the presidency; and the main object to be able to work against him, and for themselves, with preservation to the tariff, and extrication of Mr. Calhoun. The masses were alarmed at the cry of civil war, concerted and spread for the purpose of alarm; and therefore ready to hail any scheme of deliverance from that calamity. The manufacturers saw their advantage in saving their high protecting duties from immediate reduction. The friends of Mr. Clay believed that the title of pacificator, which he was to earn, would win for him a return of the glory of the Missouri compromise. Mr. Calhoun's friends saw, for him, in any arrangement, a release from his untenable and perilous position. Members of gentle temperaments in both Houses, saw relief in middle courses, and felt safety in the very word "compromise," no matter how fictitious and fallacious. The friends of Mr. Van Buren saw his advantage at getting the tariff out of his way also; and General Jackson felt a positive relief in being spared the dire necessity of enforcing the laws by the sword and by criminal prosecutions. All these parties united to pass the act; and after it was passed, to praise it; and so it passed easily, and was ushered into life in the midst of thundering applause. Only a few of the well-known senators voted against it—Mr. Webster, Mr. Dickerson, General Samuel Smith, Mr. Benton.

My objections to this bill, and its mode of being passed, were deep and abiding, and went far beyond its own obnoxious provisions, and all the transient and temporary considerations connected with it. As a friend to popular representative government, I could not see, without insurmountable repugnance, two citizens set themselves up for a *power* in the State, and undertake to regulate, by their private agreement (to be invested with the forms of law), the public affairs for years to come. I admit no man to stand for a *power* in our country, and to assume to be able to save the Union. Its safety does not depend upon the bargains of any two men. Its safety is in its own constitution—in its laws—and in the affections of the people; and all that is wanted in public men is to administer the constitution in its integrity, and to enforce the laws without fear or affection. A compromise made with a State in arms, is a capitulation to that State; and in this light, Mr. Calhoun constantly presented the act of 1833 and if it had emanated from the government, he would have been right in his fact, and in his inductions; and all discontented States would have been justified, so far as successful precedent was concerned, in all future interpositions of its *fiat* to arrest the action of the federal government. But it did not emanate from the government. It (the government) was proceeding wisely, justly, constitutionally in settling with South Carolina, by removing the cause of her real grievance, and by enforcing the laws against their violators. It (the constituted government) was proceeding regularly in this way, with a prospect of a successful issue at the actual session, and a certainty of it at the next one, when the whole subject was taken out of its hands by an arrangement between a few members. The injury was great then, and of permanent evil example. It remitted the government to the condition of the old confederation, acting upon sovereignties instead of individuals. It violated the feature of our Union which discriminated it from all confederacies which ever existed, and which was wisely and patriotically put into the constitution to save it from the fate which had attended all confederacies, ancient and modern. All these previous confederacies in their general, or collective capacity, acted upon communities, and met organized resistance as often as they decreed any thing disagreeable to one of its strong members. This opposition could only be subdued by force; and the application of force has always brought on civil war; which has ended in the destruction of the confederacy. The framers of our constitutional Union knew all this, and had seen the danger of it in history, and felt the danger of it in our confederation; and therefore established a UNION instead of a LEAGUE—to be sovereign and independent within its sphere, acting upon persons through its own laws and courts, instead of acting on communities through persuasion or force. It was the crowning wisdom of the new constitution; and the effect of this compromise legislation, was to destroy that great feature of our Union—to bring the general and State governments into conflict—and to substitute a sovereign State for an offending individual as often as a State chose to make the cause of that individual her own. A State cannot commit treason, but a citizen can, and that against the laws of the United States;

and so, if a citizen commits treason against the United States he may (if this interposition be admitted), be shielded by a State. Our whole frame of government is unhinged when the federal government shifts from its foundation, and goes to acting upon States instead of individuals; and, therefore, the "compromise," as it was called, with South Carolina in 1833 was in violation of the great Union principle of our government—remitting it to the imbecility of the old confederation, giving inducement of the Nashville convention of the present year (1850); and which has only to be followed up to see the States of this Union, like those of the Mexican republic, issuing their *pronunciamientos* at every discontent; and bringing the general government to a fight, or a capitulation, as often as they please.

I omit all consideration of the minor vices of the act—great and flagrant in themselves, but subordinate in comparison to the mischiefs done to the frame of our government. At any other time these vices of matter, and manner, would have been crushing to a bill. No bill containing a tithe of the vices, crowded into this one, could ever have got through Congress before. The overthrow of the old revenue principle, that duties were to be levied on luxuries, and not on necessaries—substitution of universal *ad valorems* to the exclusion of all specific duties—the substitution of the home for the foreign valuation—the abolition of all discrimination upon articles in the imposition of duties—the preposterous stipulation against protection, while giving protection, and even in new and unheard of forms; all these were flagrant vices of the bill, no one of which could ever have been carried through in a bill before; and which perished in this one before they arrived at their period of operation. The year 1842 was to have been the jubilee of all these inventions, and set them all off in their career of usefulness; but that year saw all these fine anticipations fail! saw the high protective policy re-established, more burthensome than ever: but of this hereafter. Then the vices in the passage of the bill, being a political, not a legislative action—dominated by an outside interest of manufacturers—and openly carried in the Senate by a *douceur* to some men, not in "Kendal Green," but Kendal cotton. Yet it was received by the country as a deliverance, and the ostensible authors of it greeted as public benefactors; and their work declared by legislatures to be sacred and inviolable, and every citizen doomed to political outlawry that did not give in his adhesion, and bind himself to the perpetuity of the act. I was one of those who refused this adhesion—who continued to speak of the act as I thought—and who, in a few years, saw it sink into neglect and oblivion—die without the solace of pity or sorrow—and go into the grave without mourners or witnesses, or a stone to mark the place of its interment.

CHAPTER LXXXVII.

VIRGINIA RESOLUTIONS OF '98-'99—DISABUSED OF THEIR SOUTH CAROLINA INTERPRETATION—1. UPON THEIR OWN WORDS—2. UPON CONTEMPORANEOUS INTERPRETATION.

The debate in the Senate, in 1830, on Mr. Foot's resolutions, has been regarded as the dawn of those ideas which, three years later, under the name of "nullification," but with the character and bearing the seeds of disorganization and civil war, agitated and endangered the Union. In that debate, Mr. Hayne, as heretofore stated, quoted the third clause of the Virginia resolutions of 1798, as the extent of the doctrines he intended to avow. Though Mr. Webster, at the time, gave a different and more portentous interpretation to Mr. Hayne's course of argument, I did not believe that Mr. Hayne purposed to use those resolutions to any other effect than that intended by their authors and adopters; and they, I well knew, never supposed any right in a State of the Union, of its own motion, to annul an act of Congress, or resist its operation. Soon after the discussion of 1830, however, nullification assumed its name, with a clear annunciation of its purpose, namely, to maintain an inherent right in a State to annul the acts of the federal government, and resist their operation, in any case in which the State might judge an act of Congress to exceed the limits of the constitution. And to support this disorganizing doctrine, the resolutions of 1798, were boldly and perseveringly appealed to, and attempted to be wrested from their real intent. Nor is this effort yet abandoned; nor can we expect it to be whilst nullification still exists, either avowed or covert.

The illustrious authorship of the Resolutions of 1798; the character and reputation of the legislators who adopted them; their general acceptance by the republican party, the influence they exercised, not only on questions of the day, but on the fate of parties, and in shaping the government itself, all combine to give them importance, and a high place in public esteem; and would go far to persuade the country that nullification was right, if *they* were nullification. In connection, therefore, with the period and events in which nullification had its rise, the necessity is imposed of an examination into the scope and objects of those resolutions; and the same reasons that have made, and make, the partisans of nullification so urgent to identify their fallacies with the resolutions, must make every patriot solicitous for the *vindication* of them and their author and adopters from any such affinity.

Fortunately, the material is at hand, and abundant. The resolutions are vindicated on their text alone; and contemporaneous authentic interpretation, and the reiterated, earnest—even indignant—disclaimers of the illustrious author himself, utterly repudiate the intent that nullification attempts to impute to them. I propose, therefore, to treat them in these three aspects:

I. *Vindicated on their text.*

The clause of the resolutions, chiefly relied on as countenancing nullification, is the third resolution of the series, and is as follows:

"That this assembly doth explicitly and peremptorily declare that it views the powers of the federal government, as resulting from the compact, to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, the States, who are the parties thereto, have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties appertaining to them."

The right and duty of interposition is certainly here claimed for the States, in case of a "deliberate, palpable, and dangerous assumption of powers, by the federal government;" but, looking alone to the words of the text, it is an unreasonable inference, that forcible or nullifying interposition is meant. The word does not import resistance, but rather the contrary; and can only be understood in a hostile sense, when the connection in which it is used necessarily implies force. Such is not the case in this resolution; and no one has a right to suppose that, if its authors had intended to assert a principle of such transcendent importance, as that the States were severally possessed of the right to annul an act of Congress, and resist its execution, they would not have used words to declare that meaning explicitly, or, that they would intimate covertly a doctrine they dared not avow.

The constitution itself suggests several modes of interposition, competent for either the States or the people. It provides for the election (by a mixed system, popular and State), at brief intervals, of all the functionaries of the federal government; and hence, the interposition of the will of the States and people to effect a change of rulers; hence, of policy. It provides that freedom of speech and the press, shall not be abridged, which is equivalent to a provision that those powerful means be perpetually interposed to affect the public conscience and sentiment—to counsel and alarm the public servants; to influence public policy—to restrain and remedy government abuses. It recognizes the right, and provides that it shall not be abridged, of th people "to assemble and petition the government for the redress of grievances;" hence, contemplating that there may be grievances on the part of the government, and suggesting a means of meeting and overcoming them. Finally, it provides that, on the application of a designated proportion of the States, Congress shall cause a convention to be called, to provide, in the constitution itself, should it be judged necessary, additional securities to the States and the people, and additional restraints on the government.

To act on the sentiments of the country then; to bring to their aid the potent engines of the press and public harangues; to move the people to petition and remonstrance against the obnoxious measures; to draw the attention of other States to the abuses complained of, and to the latitudinous construction the federal authorities were giving to their powers; and thus bring those States, in like manner, to act on their senators and representatives, and on the public voice, so as to produce an immediate remedy, or to co-operate in calling a convention

to provide further securities—one or both; these alone are the modes of "interposition" the Virginia resolutions of 1798 contemplated; all they professed; all they attempted; all that the resolutions, or their history, warrant to be imputed to them. These modes of interposition are all consistent with peace and order; with obedience to the laws, and respect to the lawful authorities; the very means, as was well argued by the supporters of the resolutions, to prevent civil strife, insubordination, or revolution; in all respects, the antipodes of nullification.

To enlarge somewhat on the force of the words of the resolutions: The right and duty of "the States" to interpose, certainly does not mean the right of "a State" to nullify and set at nought. The States—less than the whole number—have a right to interpose, secured, as already shown, in the constitution; and this, not only persuasively, but peremptorily; to compel the action they may desire; and it is demonstrable, that it was this constitutional provision that the Virginia legislature had in mind, as a last resort. The resolutions do not speak any where of the right of a State; but use the plural number, States. Virginia exercises the right that pertains to a State—all the right that, in the premises, she pretends to—in passing the resolutions, declaring her views, and inviting the like action of her co-States. Instead, therefore, of the resolutions being identical with nullification, the two doctrines are not merely hostile, but exactly opposites; the sum of the Virginia doctrine being, that it belongs to a State to take, as Virginia does in this instance, the initiative in impeaching any objectionable action of the federal government, and to ask her co-States to co-operate in procuring the repeal of a law, a change of policy, or an amendment of the constitution—according as one or the other, or all, may be required to remedy the evil complained of; whereas, nullification claims, that a single State may, of its own motion, nullify any act of the federal government it objects to, and stay its operation, until three fourths of all the States come to the aid of the national authority, and re-enact the nullified measure. One submits to the law, till a majority repeal it, or a convention provides a constitutional remedy for it; the other undertakes to annul the law, and suspend its operation, so long as three fourths of the States are not brought into active co-operation to declare it valid. The resolutions maintain the government in all its functions, only seeking to call into use the particular function of repeal or amendment: nullification would stop the functions of government, and arrest laws indefinitely; and is incapable of being brought to actual experiment, in a single instance, without a subversion of authority, or civil war. To this essential, radical, antagonistic degree do the Virginia resolutions and the doctrine of nullification differ, one from the other; and thus unjustly are the Virginia republicans, of 1798, accused of planting the seeds of dissolution—a "deadly poison," as Mr. Madison, himself, emphatically calls the doctrine of nullification—in the institutions they had so labored to construct.

II. *Upon their contemporaneous interpretation.*

The contemporaneous construction of the resolutions is found in the debates on their adoption; in the responses to them of other State legislatures; and in the confirmatory report prepared by the same author, and adopted by the Virginia general assembly, in January, 1800; and by the conduct of the State, in the case of Callender. And it is remarkable (when we consider the uses to which the resolutions have subsequently been turned), that, while the friends of the resolutions nowhere claim more than a declaratory right for the legislature, and deny all idea of force or resistance, their adversaries, in the heat of debate, nor the States which manifested the utmost bitterness in their responses, have not attributed to the resolutions any doctrine like that of nullification. Both in the debates and in the State responses, the opponents of the resolutions denounce them as inflamatory, and "tending" to produce insubordination, and whatever other evil could then be thought of, concerning them; but no one attributes to them the absurdity of claiming for the State a right to arrest, of its own motion, the operation of the acts of Congress.

The principal speakers, in the Virginia legislature, in opposition to the resolutions, were: Mr. George Keith Taylor, Mr. Magill, Mr. Brooke, Mr. Cowan, Gen. Henry Lee, and Mr. Cureton. Nearly the whole debate turned, not on the abstract propriety or expediency of such resolutions, on the question whether the acts of Con-

gress, which were specially complained of, were, in fact, unconstitutional. It was admitted, indeed, by Gen. Lee, who spoke elaborately and argumentatively against the resolutions, that, if the acts were unconstitutional, it was "proper to interfere;" but the extreme notions of the powers of the federal government that then prevailed in the federal party, led them to contend that those powers extended to the acts in question, though, at this day, they are universally acknowledged to be out of the pale of federal legislation. Beyond the discussion of this point, and one or two others not pertinent to the present matter, the speakers dwelt only on the supposed "tendency" of such declarations to excite the people to insubordination and nonsubmission to the law.

Mr. George K. Taylor complained at the commencement of his speech, that the resolutions "contained a declaration, not of opinion, but of fact;" and he apprehended that "the consequences of pursuing the advice of the resolutions would be insurrection, confusion, and anarchy;" but the legal effect and character that he attributed to the resolutions, is shown in his concluding sentence, as follows:

"The members of that Congress which had passed those laws, had been, so far as he could understand, since generally re-elected; therefore he thought the people of the United States had decided in favor of their constitutionality, and that such an attempt as they were then making to induce Congress to repeal the laws would be nugatory."

Mr. Brooke thought resolutions "declaring laws which had been made by the government of the United States to be unconstitutional, null and void," were "dangerous and improper;" that they had a "tendency to inflame the public mind;" to lessen the confidence that ought to subsist between the representatives of the people in the general government and their constituents; and to "sap the very foundations of the government, by producing resistance to its laws." But that he did not apprehend the resolutions to be, or to intend, any thing beyond an expression of sentiment, is evident from his further declaration, that he was opposed to the resolutions, and equally opposed to any modification of them, that should be "intended as an expression of the general sentiment on the subject, because he conceived it to be an improper mode by which to express the wishes of the people of the State on the subject."

General Lee thought the alien and sedition laws "not unconstitutional;" but if they were unconstitutional he "admitted the right of interposition on the part of the general assembly." But he thought these resolutions showed "indecorum and hostility," and were "not the likeliest way to obtain a repeal of the laws." He "suspected," in fact, that "the repeal of the laws was not the leading point in view," but that they "covered" the objects of "promotion of disunion and separation of the States." The resolutions "struck him as recommending resistance. They declared the laws null and void. Our citizens thus thinking would disobey the laws." His plan would be, if he thought the laws unconstitutional, to let the people petition, or that the legislature come forward at once, "with a proposition for amending the doubtful parts of the constitution;" or with a "respectful or friendly memorial, urging Congress to repeal the laws." But he "admitted" the only right which the resolutions assert for the State, namely, the right "to interpose." The remarks of the other opponents to the resolutions were to the same effect.

On behalf of the resolutions, the principal speakers were, Mr. John Taylor, of Caroline, who had introduced them, Mr. Ruffin, Mr. Mercer, Mr. Pope, Mr. Foushee, Mr. Daniel, Mr. Peter Johnston, Mr. Giles, Mr. James Barbour.

They obviated the objection of the speakers on the other side, that the resolutions "contained a declaration, not of opinion, but of fact," by striking out the words which, in the original draft, declared the acts in question to be "null, void, and of no force or effect;" so as to make it manifest, as the advocates of the resolutions maintained, that they intended nothing beyond an expression of sentiment. They obviated another objection which appeared in the original draft, which asserted the States *alone* to be the parties to the constitution, by striking out the word "alone." They thoroughly and successfully combated both the "suspicion" that they hid any ulterior object of dissension or disunion, and the "apprehension" that the resolutions would encourage insubordination among the people They acceded to and affirmed, that their objec was to obtain a repeal of the offensive measures, that the resolutions might ultimately lead to a

convention for amending the constitution, and that they were intended both to express and to affect public opinion; but nothing more.

Says Mr. Taylor, of Caroline:

"If Congress should, as was certainly possible, legislate unconstitutionally, it was evident that in theory they have done wrong, and it only remained to consider whether the constitution is so defective as to have established limitations and reservations, without the means of enforcing them, in a mode by which they could be made practically useful. Suppose a clashing of opinion should exist between Congress and the States, respecting the true limits of their constitutional territories, it was easy to see, that if the right of decision had been vested in either party, that party, deciding in the spirit of party, would inevitably have swallowed up the other. The constitution must not only have foreseen the possibility of such a clashing, but also the consequence of a preference on either side as to its construction. And out of this foresight must have arisen the fifth article, by which two thirds of Congress may call upon the States for an explanation of any such controversy as the present; and thus correct an erroneous construction of its own acts by a minority of the States, whilst two thirds of the States are also allowed to compel Congress to call a convention, in case so many should think an amendment necessary for the purpose of checking the unconstitutional acts of that body. . . . . Congress is the creature of the States and the people; but neither the States nor the people are the creatures of Congress. It would be eminently absurd, that the creature should exclusively construe the instrument of its own existence; and therefore this construction was reserved indiscriminately to one or the other of those powers, of which Congress was the joint work; namely, to the people whenever a convention was resorted to, or to the States whenever the operation should be carried on by three fourths."

"Mr. Taylor then proceeded to apply these observations to the threats of war, and the apprehension of civil commotion, 'towards which the resolutions were said to have a tendency.' Are the republicans, said he, possessed of fleets and armies? If not, to what could they appeal for defence and support? To nothing, except public opinion. If that should be against them, they must yield; if for them, did gentlemen mean to say, that public will should be assailed by force? . . . . And against a State which was pursuing the only possible and ordinary mode of ascertaining the opinion of two thirds of the States, by declaring its own and asking theirs?"

"He observed that the resolutions had been objected to, as couched in language too strong and offensive; whilst it had also been said on the same side, that if the laws were unconstitutional, the people ought to fly to arms and resist them. To this he replied that he was not surprised to hear the enemies of the resolutions recommending measures which were either feeble or rash. Timidity only served to invite a repetition of injury, whilst an unconstitutional resort to arms would not only justly exasperate all good men, but invite those who differed from the friends of the resolutions to the same appeal, and produce a civil war. Hence, those who wished to preserve the peace, as well as the constitution, had rejected both alternatives, and chosen the middle way. They had uttered what they conceived to be truth, and they had pursued a system which was only an appeal to public opinion; because that appeal was warranted by the constitution and by principle."

Mr. Mercer, in reply to Mr. G. K. Taylor, said:

"The gentleman from Prince George had told the committee that the resolutions were calculated to rouse the people to resistance, to excite the people of Virginia against the federal government. Mr. Mercer did not see how such consequences could result from their adoption. They contained nothing more than the sentiment which the people in many parts of the State had expressed, and which had been conveyed to the legislature in their memorials and resolutions then lying on the table. He would venture to say that an attention to the resolutions from the committee would prove that the qualities attempted to be attached to them by the gentleman could not be found."

"The right of the State government to interfere in the manner proposed by the resolutions, Mr. Mercer contended was clear to his mind. . . . . The State believed some of its rights had been invaded by the late acts of the general government, and proposed a remedy whereby to obtain a repeal of them. The plan contained in the resolutions appeared to Mr. Mercer the most advisable. Force was not thought of by any one. . . . . The States were equally concerned, as their rights had been equally invaded; and nothing seemed more likely to produce a temper in Congress for a repeal."

"The object (of the friends of the resolutions), in addressing the States, is to obtain a similar declaration of opinion, with respect to several late acts of the general government, ... and thereby to obtain a repeal."

Mr. Barbour, likewise, in reply to Mr. G. K. Taylor, said:

"The gentleman from Prince George had remarked that those resolutions invited the people to insurrection and to arms; but, if he could conceive that the consequences foretold would grow out of the measure, he would become its bitterest enemy." . . . . . The resolutions were "addressed, not to the people but to the

sister States; praying, in a pacific way, their co-operation, in arresting the tendency and effect of unconstitutional laws.

"For his part, he was for using no violence. It was the peculiar blessing of the American people to have redress within their reach, by constitutional and peaceful means."

On the same point, Mr. Daniel spoke as follows:

"If the other States think, with this, that the laws are unconstitutional, the laws will be repealed, and the constitutional question will be settled by this declaration of a majority of the States." . . . . . "If, on the contrary, a sufficient majority of the States should declare their opinion, that the constitution gave Congress authority to pass these laws, the constitutional question would still be settled; but an attempt might be made so to amend the constitution as to take from Congress this authority."

And, finally, Mr. Taylor of Caroline, in closing the debate, and in explanation of his former remarks in respect to calling a convention, said:

"He would explain, in a few words, what he had before said. That the plan proposed by the resolutions would not eventuate in war, but might in a convention. He did not admit, or contemplate, that a convention would be called. He only said, that if Congress, upon being addressed to have these laws repealed, should persist, they might, by a concurrence of three fourths of the States, be compelled to call a convention."

It is seen, then, by these extracts, that the opposers of the resolutions did not charge upon them, nor their supporters in any manner contend for, any principle like that of nullification; that, on the contrary, the supporters of the resolutions, so far from the absurd proposition that each State could, for itself, annul the acts of Congress, and to that extent stop the operation of the federal government, they did not recognize that power in a majority of the States, nor even in all the States together, by any extra-constitutional combination or process, or to annul a law otherwise than through the prescribed forms of legislative repeal, or constitutional amendment.

The resolutions were, however, vigorously assailed by the federal party throughout the Union, especially in the responses of several of the States; and at the ensuing session of the Virginia legislature, those State responses were sent to a committee, who made an elaborate examination of the resolutions, and of the objections that had been made to them, concluding by a justification of them in all particulars, and reiterating their declarations. This report was adopted by the general assembly and is a part of the contemporaneous and authentic interpretation of the resolutions. The report says:

"A declaration that proceedings of the federa government are not warranted by the constitution, is a novelty neither among the citizens, nor among the legislatures of the States.

"Nor can the declarations of either, whether affirming or denying the constitutionality of measures of the federal government, or whether made before or after judicial decisions thereon, be deemed, in any point of view, an assumption of the office of judge. The declarations, in such cases, are expressions of opinion, unaccompanied by any other effect than what they may produce on opinion, by exciting reflection. The expositions of the judiciary, on the other hand, are carried into immediate effect by force."

Again: "In the example given by the State, of declaring the alien and sedition acts to be unconstitutional, and of communicating the declaration to other States, no trace of improper means has appeared. And if the other States had concurred in making a like declaration, supported too, by the numerous applications flowing immediately from the people, it can scarcely be doubted, that these simple means would have been as sufficient, as they are unexceptionable.

"It is no less certain that other means might have been employed, which are strictly within the limits of the constitution. The legislatures of the States might have made a direct representation to Congress, with a view to obtain a rescinding of the two offensive acts; or they might have represented to their respective senators in Congress their wish, that two-thirds thereof would propose an explanatory amendment to the constitution; or two-thirds of themselves, if such had been their option, might, by an application to Congress, have obtained a convention for the same object.

"These several means, though not equally eligible in themselves, nor probably to the States, were all constitutionally open for consideration. And if the general assembly, after declaring the two acts to be unconstitutional, the first and most obvious proceeding on the subject, did not undertake to point out to the other States a choice among the farther measures that might become necessary and proper, the resource will not be misconstrued by liberal minds into any culpable imputation."

These extracts are valuable, not only for their positive testimony that the Resolution of 1798, nor their authors, had ever contemplated such a doctrine as Nullification; but

also for their precise definition and enumeration of the powers which, in the premises, were really claimed for the States, by the State-Rights Republicans of that day. They are all distinctly laid down:

1. By a solemn declaration of opinion, calculated to operate on the public sentiment, and to induce the co-operation of other States in like declarations.

2. To make a direct representation to Congress, with a view to obtain a repeal of the acts complained of.

3. To represent to their respective senators their wish that two-thirds thereof would propose an explanatory amendment to the constitution.

4. By the concurrence of two-thirds of the States to cause Congress to call a convention for the same object.

These are the entire list of the remedial powers suspected, by the Resolutions of 1798, and their author and adopters, to exist in the States with reference to federal enactments. Their variant character from the peremptory arrest of acts of Congress proposed by nullification, is well illustrated in the comparison made in the report between expressions of opinion like those of the resolutions, and the compulsory operation of a judicial process. Supposing, says the report, "that it belongs to the judiciary of the United States, and not the State legislatures, to declare the meaning of the federal constitution," yet the declarations either of a State, or the people, "whether affirming or denying the constitutionality of measures of the federal government, or whether made before or after judicial decisions thereon," cannot "be deemed in any point of view an assumption of the office of the judge;" because, "the declarations in such cases are expressions of opinions unaccompanied with any other effect than what they may produce on opinion, by exciting reflection;"—whereas, "the expositions of the judiciary are carried into immediate effect by force."

The Republicans who adopted the Resolutions of 1798, never contemplated carrying their expositions into effect by force; never contemplated imparting to them the character of decisions, or decrees, or the legal determination of a question; or of arresting by means of them the operation of the acts they condemned. The worst the enemies of the resolutions undertook to say of them, was that they were intemperate, and might mislead the people into disobedience of the laws. This was successfully combated; but had it been true—had the authors of the resolutions even intended any thing so base, it would still have been nothing comparable to the crime of State nullification; of placing the State itself in hostile array to the federal government. Insubordination of individuals may usually be overcome by ordinary judicial process, or by the *posse* of the county where it occurs; or even if so extensive as to require the peace-officers to be aided by the military, it is still but a matter of police, and in our country cannot endanger the existence of the government. But the array of a *State* of the Union against the federal authority, is *war*—a war between powers—both sovereign in their respective spheres—and that could only terminate in the destruction of the one, or the subjugation and abasement of the other.

But neither the one or the other of these crimes was contemplated by the authors of the Resolutions of 1798. The remedies they claimed a right to exercise are all pointed out in the constitution itself; capable of application without disturbing the processes of the law, or suggesting an idea of insubordination; remedies capable of saving the liberties of the people and the rights of the States, and bringing back the federal government to its constitutional track, without a jar or a check to its machinery; remedies felt to be sufficient, and by crowning experience soon proven to be so. It is due to the memory of those men and those times that their acts should no longer be misconstrued to cover a doctrine synonymous with disorganization and civil war. The conduct both of the government, and the people, on the occasion of these resolutions, show how far they were from any nullifying or insubordinate intention; and this furnishes us with another convincing proof of the contemporaneous interpretation of the resolutions. So far (as Mr. Madison justly says,)* was the State of Virginia from countenancing the nullifying doctrine, that the occasion was viewed as a proper one for exemplifying its devotion to public order, and acquiescence in laws which it deemed unconstitutional, while those laws were not repealed. The language of the Governor of

* Selections from the correspondence of Madison, p. 399.

the State (Mr. James Monroe), in a letter to Mr. Madison, in May and June of 1800, will attest the principles and feelings which dictated the course pursued on the occasion, and whether the people understood the resolutions in any inflammatory or vicious sense.

On the 15th May, 1800, Governor Monroe writes to Mr. Madison as follows:

"Besides, I think there is cause to suspect the sedition law will be carried into effect in this State at the approaching federal court, and I ought to be there (Richmond) to aid in preventing trouble. . . . . I think it possible an idea may be entertained of opposition, and by means whereof the fair prospect of the republican party may be overcast. But in this they are deceived, as certain characters in Richmond and some neighboring counties are already warned of their danger, so that an attempt to excite a hot-water insurrection will fail."

And on the 4th of June, 1800, he wrote again, as follows:

"The conduct of the people on this occasion was exemplary, and does them the highest honor. They seemed aware that the crisis demanded of them a proof of their respect for law and order, and resolved to show they were equal to it. I am satisfied a different conduct was expected from them, for every thing that could was done to provoke it. It only remains that this business be closed on the part of the people, as it has been so far acted; that the judge, after finishing his career, go off in peace, without experiencing the slightest insult from any one; and that this will be the case I have no doubt."

Governor Monroe was correct in the supposition that the sedition law would be carried into effect, at the approaching session of the federal court, and he was also right in the anticipation that the people would know how to distinguish between the exercise of means to procure the repeal of an act, and the exercise of violence to stop its operation. The act was enforced; was "carried into effect" in their midst, and a fellow-citizen incarcerated under its odious provisions, without a suggestion of official or other interference. Thus we have the contemporaneous interpretation of the resolutions exemplified and set at rest, by the most powerful of arguments: by the impressive fact, that when the public indignation was at its height, subsequent to the resolutions of 1798, and subsequent to the report of '99, and when both had been universally disseminated and read, and they had had, with the debates upon them, their entire influence on the public mind; that at that moment, the act of Congress against which the resolutions were chiefly aimed, and the indignation of the community chiefly kindled, was then and there carried into execution, and that in a form—the unjust deprivation of a citizen of his liberty—the most obnoxious to a free people, and the most likely to rouse their opposition; yet quietly and peaceably done, by the simple, ordinary process of the federal court. This fact, so creditable to the people of Virginia, is thus noted in the annual message of Governor Monroe, to the general assembly, at their next meeting, December, 1800:

"In connection with this subject [of the resolutions] it is proper to add, that, since your last session, the sedition law, one of the acts complained of, has been carried into effect in this commonwealth by the decision of a federal court. I notice this event, not with a view of censuring or criticising it. The transaction has gone to the world, and the impartial will judge of it as it deserves. I notice it for the purpose of remarking that the decision was executed with the same order and tranquil submission on the part of the people, as could have been shown by them on a similar occasion, to any the most necessary, constitutional and popoular acts of the government."

Governor Monroe then adds his official and personal testimony to the proper intent and character of the proceedings of '98, '9, as follows:

"The general assembly and the good people of this commonwealth have acquitted themselves to their own consciences, and to their brethren in America, in support of a cause which they deem a national one, by the stand which they made, and the sentiments they expressed of these acts of the general government; but they have looked for a change in that respect, to a change in the public opinion, which ought to be free; not to measures of violence, discord and disunion, which they abhor."

CHAPTER LXXXVIII.

VIRGINIA RESOLUTIONS OF 1798:—DISABUSED OF NULLIFICATION, BY THEIR AUTHOR.

VINDICATED upon their words, and upon contemporaneous interpretation, another vindication, superfluous in point of proof, but due to those whose work has been perverted, awaits these resolutions, derived from the words of

their author (after seeing their perversion); and to absolve himself and his associates from the criminal absurdity attributed to them.

The contemporary opponents of the Resolutions of 1798 said all the evil of them, and represented them in every odious light, that persevering, keen and enlightend opposition could discover or imagine. Their defenders successfully repelled the charges then made against them; but could not vindicate them from intending the modern doctrine of Nullification, because that doctrine had not then been invented, and the ingenuity of their adversaries did not conceive of that ground of attack. Their venerable author, however—the illustrious MADISON*—was still alive, when this new perversion of his resolutions had been invented, and when they were quoted to sustain doctrines synonymous with disorganization and disunion. He was still alive, in retirement on his farm. His modesty and sense of propriety hindered him from carrying the prestige and influence of his name into the politics of the day; but his vigorous mind still watched with anxious and patriotic interest the current of public affairs, and recoiled with instinctive horror both from the doctrine and attempted practice of Nullification, and the attempted connection of his name and acts with the origination of it. He held aloof from the public contest; but his sentiments were no secret. His private correspondence, embracing in its range distinguished men of all sections of the Union and of all parties, was full of the subject, from the commencement of the Nullification excitement down to the time of his death: sometimes at length, and argumentatively; sometimes with a brief indignant disclaimer; always earnestly and unequivocally. Some of these letters, although private, were published during Mr. Madison's lifetime, especially an elaborate one to Mr. Edward Everett; and many of the remainder have recently been put into print, through the liberality of a patrotic citizen of Washington (Mr. J. Maguire), but only for private distribution, and hence not accessible to the public. They are a complete storehouse of material, not only for the vindication of Madison and his compeers, from the doctrine of Nullification, but of argument and reasons against Nullification and every kindred suggestion.

From the letter to Mr. Everett, published in the North American Review, shortly after it was written (August, 1830), the following extracts are taken:

"It (the constitution of the United States) was formed by the States, that is, by the people in each of the States, acting in their highest sovereign capacity; and formed consequently by the same authority which formed the State constitutions.

"Being thus derived from the same source as the constitutions of the States, it has, within each State, the same authority as the constitution of the State, and is as much a constitution in the strict sense of the term within its prescribed sphere, as the constitutions of the States are within their respective spheres; but with this obvious and essential difference, that being a compact among the States in their highest sovereign capacity, and constituting the people thereof one people for certain purposes, it cannot be altered or annulled at the will of the States individually, as the constitution of a State may be at its individual will."

"Nor is the government of the United States, created by the constitution, less a government in the strict sense of the term, within the sphere of its powers, than the governments created by the constitutions of the States are, within their several spheres. It is like them organized into legislative, executive and judiciary departments. It operates, like them, directly on persons and things. And, like them, it has at command a physical force for executing the powers committed to it.

"Between these different constitutional governments, the one operating in all the States, the others operating separately in each, with the aggregate powers of government divided between them, it could not escape attention, that controversies would arise concerning the boundaries of jurisdiction."

"That to have left a final decision, in such cases, to each of the States, could not fail to make the constitution and laws of the United States different in different States, was obvious, and not less obvious that this diversity of independent decisions, must altogether distract the government of the Union, and speedily put an end to the Union itself."

"To have made the decision under the authority of the individual States, co-ordinate in all cases, with decisions under the authority of the United States, would unavoidably produce collisions incompatible with the peace of society."

"To have referred every clashing decision, under the two authorities, for a final decision, to

* Mr. Madison did not introduce the Resolutions into the Virginia legislature. He was not a member of that body in 1798. The resolutions were reported by John Taylor, of Caroline. Mr. Madison, however, was always reputed to be their author, and in a letter to Mr. James Robertson, written in March, 1831, he distinctly avows it. He was both the author and reporter of the Report and Resolution of 1799--1800.

the States as parties to the constitution, would be attended with delays, with inconveniences and expenses, amounting to a prohibition of the expedient."

"To have trusted to 'negotiation' for adjusting disputes between the government of the United States and the State governments, as between independent and separate sovereignties, would have lost sight altogether of a constitution and government of the Union, and opened a direct road, from a failure of that resort, to the *ultima ratio*, between nations wholly independent of, and alien to each other. . . . . Although the issue of negotiation might sometimes avoid this extremity, how often would it happen among so many States, that an unaccommodating spirit in some would render that resource unavailing?"

After thus stating, with other powerful reasons, why all those fanciful and impracticable theories were rejected in the constitution, the letter proceeds to show what the constitution does adopt and rely on, "as a security of the rights and powers of the States," namely:

"1. The responsibility of the senators and representatives in the legislature of the United States to the legislatures and people of the States: 2. The responsibility of the President to the people of the United States; and, 3. The liability of the executive and judicial functionaries of the United States to impeachment by the representatives of the people of the States in one branch of the legislature of the United States, and trial by the representatives of the States, in the other branch."

And then, in order to mark how complete these provisions are for the security of the States, shows that while the States thus hold the functionaries of the United States to these several responsibilities, the State functionaries, on the other hand, in their appointment and responsibility, are "altogether independent of the agency or authority of the United States."

Of the doctrine of nullification, "the expedient lately advanced," the letter says:

"The distinguished names and high authorities which appear to have asserted and given a practical scope to this doctrine, entitle it to a respect which it might be difficult otherwise to feel for it."

"The resolutions of Virginia, as vindicated in the report on them, will be found entitled to an exposition, showing a consistency in their parts, and an inconsistency of the whole with the doctrine under consideration."

"That the legislature could not have intended to sanction any such doctrine is to be inferred from the debates in the House of Delegates The tenor of the debates, which were ably conducted, discloses no reference whatever to a constitutional right in an individual State to arrest by force a law of the United States."

"If any further light on the subject could be needed, a very strong one is reflected in the answers to the resolutions, by the States which protested against them. . . . . Had the resolutions been regarded as avowing and maintaining a right, in an individual State, to arrest by force the execution of a law of the United States, it must be presumed that it would have been a conspicuous object of their denunciation."

In a letter to Mr. Joseph C. Cabell, May 31, 1830, Mr. Madison says:

"I received yesterday yours of the 26th. Having never concealed my opinions of the nullifying doctrines of South Carolina, I did not regard the allusion to it in the *Whig*, especially as the manner of the allusion showed that I did not obtrude it. . . . . I have latterly been drawn into a correspondence with an advocate of the doctrine, which led me to a review of it to some extent, and particularly to a vindication of the proceedings of Virginia in 1798, '99, against the misuse made of them. That you may see the views I have taken of the aberrations of South Carolina, I enclose you an extract."

And in a letter to Mr. Daniel Webster, written a few days previously, he uses nearly the same language; as also in a letter in February, 1830, to Mr. Trist.

To Mr. James Robertson, March 27, 1831, Mr. Madison writes as follows:

"The veil which was orignally over the draft of the resolutions offered in 1798 to the Virginia Assembly having been long since removed, I may say, in answer to your inquiries, that it was penned by me."

"With respect to the terms following the term 'unconstitutional,' viz., 'not law, but null, void, and of no force or effect,' which were stricken out of the seventh resolution, my memory cannot say positively whether they were or were not in the original draft, and no copy of it appears to have been retained. On the presumption that they were in the draft as it went from me, I am confident that they must have been regarded only as giving accumulated emphasis to the declaration, that the alien and sedition acts had, in the opinion of the assembly, violated the constitution of the United States, and *not* that the addition of them could annul the acts or sanction a resistance of them. The resolution was expressly *declaratory*, and, proceeding from the legislature only, which was not even a party to the constitution, could be declaratory of opinion only."

To Joseph C. Cabell, Sept. 16, 1831:

"I congratulate you on the event which restores you to the public councils, where your services will be valuable, particularly in defending the constitution and Union against the false doctrines which assail them. That of nullification seems to be generally abandoned in Virginia, by those who had most leaning towards it. But it still flourishes in the hot-bed where it sprung up."

"I know not whence the idea could proceed that I concurred in the doctrine, that although a State could not nullify a law of the Union, it had a right to secede from the Union. Both spring from the same poisonous root."

To Mr. N. P. Trist, December, 1831:

"I cannot see the advantage of this perseverance of South Carolina in claiming the authority of the Virginia proceedings in 1798, '99, as asserting a right in a single State to nullify an act of the United States. Where, indeed, is the fairness of attempting to palm on Virginia an intention which is contradicted by such a variety of contradictory proofs; which has at no intervening period, received the slightest countenance from her, and which with one voice she now disclaims?"

"To view the doctrine in its true character, it must be recollected that it asserts a right in a single State to stop the execution of a federal law, until a convention of the States could be brought about by a process requiring an uncertain time; and, finally, in the convention, when formed, a vote of seven States, if in favor of the veto, to give it a prevalence over the vast majority of seventeen States. For this preposterous and anarchical pretension there is not a shadow of countenance in the constitution; and well that there is not, for it is certain that, with such a deadly poison in it, no constitution could be sure of lasting a year."

To Mr. C. E. Haynes, August 26, 1832:

"In the very crippled and feeble state of my health, I cannot undertake an extended answer to your inquiries, nor should I suppose it necessary if you have seen my letter to Mr. Everett, in August, 1830, in which the proceedings of Virginia, in 1798–'99, were explained, and the novel doctrine of nullification adverted to.

"The distinction is obvious between such interpositions on the part of the States against unjustifiable acts of the federal government as are within the provisions and forms of the constitution. These provisions and forms certainly do not embrace the nullifying process proclaimed in South Carolina, which begins with a single State, and ends with the ascendency of a minority of States over a majority; of seven over seventeen; a federal law, during the process, being arrested within the nullifying State; and, if a revenue law, frustrated through all the States."

To Mr. Trist, December 23, 1832:

"If one State can, at will, withdraw from the others, the others can, at will, withdraw from her, and turn her *nolentem volentem* out of the Union. Until of late, there is not a State that would have abhorred such a doctrine more than South Carolina, or more dreaded an application of it to herself. The same may be said of the doctrine of nullification which she now preaches as the only faith by which the Union can be saved."

In a letter to Mr. Joseph C. Cabell, December 28, 1832:

"It is not probable that (in the adoption of the resolutions of 1798), such an idea as the South Carolina nullification had ever entered the thoughts of a single member, or even that of a citizen of South Carolina herself."

To Andrew Stevenson, February 4, 1833:

"I have received your communication of the 29th ultimo, and have read it with much pleasure. It presents the doctrine of nullification and secession in lights that must confound, if failing to convince their patrons. You have done well in rescuing the proceedings of Virginia in 1798–'99, from the many misconstructions and misapplications of them."

"Of late, attempts are observed to shelter the heresy of secession under the case of expatriation, from which it essentially differs. The expatriating party removes only his person and his movable property, and does not incommode those whom he leaves. A seceding State mutilates the domain, and disturbs the whole system from which it separates itself. Pushed to the extent in which the right is sometimes asserted, it might break into fragments every single community."

To Mr. Stevenson, February 10, 1833, in reference to the South Carolina nullifying ordinance:

"I consider a successful resistance to the laws as now attempted, if not immediately mortal to the Union, as at least a mortal wound to it."

To "a Friend of the Union and State rights," 1833:

"It is not usual to answer communications without proper names to them. But the ability and motives disclosed in the essays induce me to say, in compliance with the wish expressed, that I do not consider the proceedings of Virginia, in 1798–'99, as countenancing the doctrine that a State may, at will, secede from its constitutional compact with the other States."

To Mr. Joseph C. Cabell, April 1, 1833:

"The attempt to prove me a nullifier, by a misconstruction of the resolutions of 1798–'99,

though so often and so lately corrected, was, I observe, renewed some days ago in the 'Richmond Whig,' by an inference from an erasure in the House of Delegates from one of those resolutions, of the words 'are null, void and of no effect,' which followed the word 'unconstitutional.' These words, though synonymous with 'unconstitutional,' were alleged by the critic to mean nullification; and being, of course, ascribed to me, I was, of course, a nullifier. It seems not to have occurred, that if the insertion of the words could convict me of being a nullifier, the erasure of them (unanimous, I believe), by the legislature, was the strongest of protests against the doctrine. . . . . The vote, in that case seems not to have engaged the attention due to it. It not merely deprives South Carolina of the authority of Virginia, on which she has relied and exulted so much in support of her cause, but turns that authority pointedly against her."

From a memorandum "On Nullification," written in 1835–'36:

"Although the legislature of Virginia declared, at a late session, almost unanimously, that South Carolina was not supported in her doctrine of nullification by the resolutions of 1798, it appears that those resolutions are still appealed to as expressly or constructively favoring the doctrine."

"And what is the text in the proceedings of Virginia which this spurious doctrine of nullification claims for its patronage? It is found in the third of the resolutions of 1798."

"Now is there any thing here from which a 'single' State can infer a right to arrest or annul an act of the general government, which it may deem unconstitutional? So far from it, that the obvious and proper inference precludes such a right."

"In a word, the nullifying claims, if reduced to practice, instead of being the conservative principle of the constitution, would necessarily, and it may be said, obviously, be a deadly poison."

"The true question, therefore, is, whether there be a 'constitutional' right in a single State to nullify a law of the United States? We have seen the absurdity of such a claim, in its naked and suicidal form. Let us turn to it, as modified by South Carolina, into a right in every State to resist within itself the execution of a federal law, deemed by it to be unconstitutional, and to demand a convention of the States to decide the question of constitutionality, the annulment of the law to continue in the mean time, and to be permanent unless three fourths of the States concur in overruling the annulment.

"Thus, during the temporary nullification of the law, the results would be the same as those proceeding from an unqualified nullification, and the result of a convention might be that seven out of twenty-four States might make the temporary results permanent. It follows, that any State which could obtain the concurrence of six others, might abrogate any law of the United States whatever, and give to the constitution, constructively, any shape they pleased, in opposition to the construction and will of the other seventeen.* Every feature of the constitution might thus be successively changed; and after a scene of unexampled confusion and distraction, what had been unanimously agreed to as a whole, would not, as a whole, be agreed to by a single party."

To this graphic picture of the disorders which even the first stages of nullification would necessarily produce, drawn when the graphic limner was in the eighty-sixth and last year of his life, the following warning pages, written only a few months earlier, may be properly appended:

"What more dangerous than nullification, or more evident than the progress it continues to make, either in its original shape or in the disguises it assumes? Nullification has the effect of putting powder under the constitution and Union, and a match in the hand of every party to blow them up, at pleasure. And for its progress, hearken to the tone in which it is now preached; cast your eyes on its increasing minorities in most of the Southern States, without a decrease in any one of them. Look at Virginia herself, and read in the gazettes, and in the proceedings of popular meetings, the figure which the anarchical principle now makes, in contrast with the scouting reception given to it but a short time ago.

"It is not probable that this offspring of the discontents of South Carolina will ever approach success in a majority of the States. But a susceptibility of the contagion in the Southern States is visible; and the danger not to be concealed, that the sympathy arising from known causes, and the inculcated impression of a permanent incompatibility of interests between the South and the North, may put it in the power of popular leaders, aspiring to the highest stations, to unite the South, on some critical occasion, in a course that will end in creating a new theatre of great though inferior extent. In pursuing this course, the first and most obvious step is nullification, the next, secession, and the last, a farewell separation. How near has this course been lately exemplified! and the danger of its recurrence, in the same or some other quarter, may be increased by an increase of restless aspirants, and by the increasing impracti-

* The above was written when the number of the States was twenty-four. Now, when there are thirty-one States, the proportion would be *eight to twenty-three!* that is, that a single State nullifying, the nullification would hold good till a convention were called, and then if the nullifying State could procure seven others to join, the nullification would become absolute—the eight States overruling the twenty-three.

cability of retaining in the Union a large and cemented section against its will. It may, indeed, happen, that a return of danger from abroad, or a revived apprehension of danger at home, may aid in binding the States in one political system, or that the geographical and commercial ligatures may have that effect, or that the present discord of interests between the North and the South may give way to a less diversity in the application of labor, or to the mutual advantage of a safe and constant interchange of the different products of labor in different sections. All this may happen, and with the exception of foreign hostility, hoped for. But, in the mean time, local prejudices and ambitious leaders may be but too successful in finding or creating occasions for the nullifying experiment of breaking a more beautiful China vase* than the British empire ever was, into parts which a miracle only could reunite."

Incidentally, Mr. Madison, in these letters, vindicates also his compeers, Mr. Jefferson and Mr. Monroe. In the letter to Mr. Cabell, of May 31, 1830, he says:

"You will see, in vol. iii., page 429, of Mr. Jefferson's Correspondence, a letter to W. C. Nicholas, proving that he had nothing to do with the Kentucky resolutions, of 1799, in which the word 'nullification' is found. The resolutions of that State, in 1798, which were drawn by him, and have been republished with the proceedings of Virginia, do not contain this or any equivalent word."

In the letter to Mr. Trist, of December, 1831, after developing at some length the inconsistencies and fatuity of the "nullification prerogative," Mr. Madison says:

"Yet this has boldly sought a sanction, under the name of Mr. Jefferson, because, in his letter to Mr. Cartwright, he held out a convention of the States as, with us, a peaceful remedy, in cases to be decided in Europe by intestine wars. Who can believe that Mr. Jefferson referred to a convention summoned at the pleasure of a single State, with an interregnum during its deliberations; and, above all, with a rule of decision subjecting nearly three fourths to one fourth? No man's creed was more opposed to such an inversion of the republican order of things."

In a letter to Mr. Townsend of South Carolina, December 18, 1831:

"You ask 'whether Mr. Jefferson was really the author of the Kentucky resolutions, of 1799;' [in which the word 'nullify' is used, though not in the sense of South Carolina nullification.] The inference that he was not is as conclusive as it is obvious, from his letter to Col. Wilson Cary Nicholas, of September 5, 1799, in which he expressly declines, for reasons stated, preparing any thing for the legislature of that year.

"That he (Mr. Jefferson) ever asserted a right in a single State to arrest the execution of an act of Congress—the arrest to be valid and permanent, unless reversed by three fourths of the States—is countenanced by nothing known to have been said or done by him. In his letter to Major Cartwright, he refers to a convention as a peaceable remedy for conflicting claims of power in our compound government; but, whether he alluded to a convention as prescribed by the constitution, or brought about by any other mode, his respect for the will of majorities, as the vital principle of republican government, makes it certain that he could not have meant a convention in which a minority of seven States was to prevail over seventeen, either in amending or expounding the constitution."

In the letter (before quoted) to Mr. Trist, December 23, 1832:

"It is remarkable how closely the nullifiers, who make the name of Mr. Jefferson the pedestal for their colossal heresy, shut their eyes and lips whenever his authority is ever so clearly and emphatically against them. You have noticed what he says in his letters to Monroe and Carrington, pages 43 and 302, vol. ii., with respect to the powers of the old Congress to coerce delinquent States, and his reasons for preferring for the purpose a naval to a military force; and, moreover, that it was not necessary to find a right to coerce in the federal articles, that being inherent in the nature of a compact."

In another letter to Mr. Trist, dated August 25, 1834:

"The letter from Mr. Monroe to Mr. Jefferson, of which you inclose an extract, is important. I have one from Mr. Monroe, on the same occasion, more in detail, and not less emphatic in its anti-nullifying language."

In the notes "On Nullification," written in 1835–'6:

"The amount of this modified right of nullification is, that a single State may arrest the operation of a law of the United States, and institute a process which is to terminate in the ascendency of a minority over a large majority. And this new-fangled theory is attempted to be fathered on Mr. Jefferson, the apostle of republicanism, and whose own words declare, that 'acquiescence in the decision of the majority is the vital principle of it.' Well may the friends of Mr. Jefferson disclaim any sanction to it, or to any constitutional right of nullification from his opinions."

* See Franklin's letter to Lord Howe, in 1776.

In a paper drawn by Mr. Madison, in September, 1829, when his anxieties began first to be disturbed by the portentous approach of the nullification doctrine, he concludes with this earnest admonition, appropriate to the time when it was written, and not less so to the present time, and to posterity:

"In all the views that may be taken of questions between the State governments and the general government, the awful consequences of a final rupture and dissolution of the Union should never for a moment be lost sight of. Such a prospect must be deprecated—must be shuddered at by every friend of his country, to liberty, to the happiness of man. For, in the event of a dissolution of the Union, an impossibility of ever renewing it is brought home to every mind by the difficulties encountered in establishing it. The propensity of all communities to divide, when not pressed into a unity by external dangers, is a truth well understood. There is no instance of a people inhabiting even a small island, if remote from foreign danger, and sometimes in spite of that pressure, who are not divided into alien, rival, hostile tribes. The happy union of these States is a wonder; their constitution a miracle; their example the hope of liberty throughout the world. Wo to the ambition that would meditate the destruction of either."

These extracts, voluminous as they are, are far from exhausting the abundant material which these admirable writings of Mr. Madison contain, on the topic of nullification. They come to us, for our admonition and guidance, with the solemnity of a voice from the grave; and I leave them, without comment, to be pondered in the hearts of his countrymen. Notwithstanding the advanced age and growing bodily infirmities of Mr. Madison, at the time when these letters were written, his mind was never more vigorous nor more luminous. Every generous mind must sympathize with him, in this necessity, in which he felt himself in his extreme age, and when done, not only with the public affairs of the country, but nearly done with all the affairs of the world, to defend himself and associates from the attempt to fasten upon him and them, in spite of his denials, a criminal and anarchical design—wicked in itself, and subversive of the government which he had labored so hard to found, and utterly destructive to that particular feature considered the crowning merit of the constitution; and which wise men and patriotic had specially devised to save our Union from the fate of all leagues. We sympathize with him in such a necessity. We should feel for any man, in the most ordinary case, to whose words a criminal intention should be imputed in defiance of his disclaimers; but, in the case of Mr. Madison—a man so modest, so pure, so just—of such dignity and gravity, both for his age, his personal qualities, and the exalted offices which he had held; and in a case which went to civil war, and to the destruction of a government of which he was one of the most faithful and zealous founders—in such a case, an attempt to force upon such a man a meaning which he disavows, becomes not only outrageous and odious, but criminal and impious. And if, after the authentic disclaimers which he has made in his advanced age, and which are now published, any one continues to attribute this heresy to him, such a person must be viewed by the public as having a mind that has lost its balance! or, as having a heart void of social duty, and fatally bent on a crime, the guilt of which must be thrown upon the tenants of the tomb—speechless, but not helpless! for, every just man must feel their cause his own! and rush to a defence which public duty, private honor, patriotism, filial affection, and gratitude to benefactors impose on every man (born wheresoever he may have been) that enjoys the blessings of the government which their labors gave us.

CHAPTER LXXXIX.

THE AUTHOR'S OWN VIEW OF THE NATURE OF OUR GOVERNMENT, AS BEING A UNION IN CONTRADISTINCTION TO A LEAGUE: PRESENTED IN A SUBSEQUENT SPEECH ON MISSOURI RESOLUTIONS.

I do not discuss these resolutions at this time. That discussion is no part of my present object. I speak of the pledge which they contain, and call it a mistake; and say, that whatever may be the wishes or the opinions of the people of Missouri on the subject of the extension or non-extention of slavery to the Territories, they have no idea of resisting any act of Congress on the subject. They abide the law, when it comes, be it what it may, subject to the decision of the ballot-box and the judiciary.

I concur with the people of Missouri in this view of their duty, and believe it to be the only

course consistent with the terms and intention of our constitution, and the only one which can save this Union from the fate of all the confederacies which have successively appeared and disappeared in the history of nations. Anarchy among the members, and not tyranny in the head, has been the rock on which all such confederacies have split. The authors of our present form of government knew the danger of this rock, and they endeavored to provide against it. They formed a Union—not a league—a federal legislature to act upon persons, not upon States; and they provided peaceful remedies for all the questions which could arise between the people and the government. They provided a federal judiciary to execute the federal laws when found to be constitutional; and popular elections to repeal them when found to be bad. They formed a government in which the law and the popular will, and not the sword, was to decide questions; and they looked upon the first resort to the sword for the decision of such questions as the death of the Union.

The old confederation was a league, with a legislature acting upon sovereignties, without power to enforce its decrees, and without union except at the will of the parties. It was powerless for government, and a rope of sand for union. It was to escape from that helpless and tottering government that the present constitution was formed; and no less than ten numbers of the federalist—from the tenth to the twentieth—were devoted to this defect of the old system, and the necessity of the new one. I will read some extracts from these numbers—the joint product of Hamilton and Madison—to show the difference between the league which we abandoned and the Union which we formed—the dangers of the former and the benefits of the latter—that it may be seen that the resolutions of the general assembly of Missouri, if carried out to their conclusions, carry back this Union to the league of the confederation—make it a rope of sand, and the sword the arbiter between the federal head and its members.

Mr. B. then read as follows:

"The great and radical vice, in the structure of the existing confederation, is in the principle of legislation for States or governments, in their corporate or collective capacities, and as contradistinguished from the individuals of which they consist. Though this principle does not run through all the powers delegated to the Union, yet it prevades and governs those on which the efficacy of the rest depends. The consequence of this is, that, though in theory constitutionally binding on the members of the Union, yet in practice they are mere recommendations, which the States observe or disregard at their option. Government implies the power of making laws. It is essential to the idea of a law that it be attended with a sanction, or, in other words, a penalty or punishment for disobedience. This penalty, whatever it may be, can only be inflicted in two ways—by the agency of the courts and ministers of justice, or by military force; by the coercion of the magistracy, or by the coercion of arms. The first kind can evidently apply only to men; the last kind must of necessity be employed against bodies politic, or communities, or States. It is evident there is no process of a court by which their observance of the laws can, in the last resort, be enforced. Sentences may be denounced against them for violations of their duty; but these sentences can only be carried into execution by the sword. In an association where the general authority is confined to the collective bodies of the communities that compose it, every breach of the laws must involve a state of war; and military execution must become the only instrument of civil obedience. Such a state of things can certainly not deserve the name of government, nor would any prudent man choose to commit his happiness to it."

Of the certain destruction of the Union when the sword is once drawn between the members of a Union and their head, they speak thus:

"When the sword is once drawn, the passions of men observe no bounds of moderation. The suggestions of wounded pride, the instigations of irritated resentment, would be apt to carry the States, against which the arms of the Union were exerted, to any extremes necessary to avenge the affront, or to avoid the disgrace of submission. The first war of this kind would probably terminate in a dissolution of the Union."

Of the advantage and facility of the working of the federal system, and its peaceful, efficient, and harmonious operation—if the federal laws are made to operate upon citizens, and not upon States—they speak in these terms:

"But if the execution of the laws of the national government should not require the inter-

vention of the State legislatures; if they were to pass into immediate operation upon the citizens themselves, the particular governments could not interrupt their progress without an open and violent exertion of unconstitutional power. They would be obliged to act, and in such manner as would leave no doubt that they had encroached on the national rights. An experiment of this nature would always be hazardous in the face of a constitution in any degree competent to its own defence, and of a people enlightened enough to distinguish between a legal exercise and an illegal usurpation of authority. The success of it would require not merely a factious majority in the legislature, but the concurrence of the courts of justice, and of the body of the people. If the judges were not embarked in a conspiracy with the legislature, they would pronounce the resolutions of such a majority to be contrary to the supreme law of the land, unconstitutional and void. If the people were not tainted with the spirit of their State representatives, they, as the natural guardians of the constitution, would throw their weight into the national scale, and give it a decided preponderance in the contest."

Of the ruinous effects of these civil wars among the members of a republican confederacy, and their disastrous influence upon the cause of civil liberty itself throughout the world, they thus speak:

"It is impossible to read the history of the petty republics of Greece and Italy, without feeling sensations of disgust and horror at the distractions with which they were continually agitated, and at the rapid succession of revolutions by which they were kept continually vibrating between the extremes of tyranny and anarchy. From the disorders which disfigure the annals of those republics, the advocates of despotism have drawn arguments, not only against the forms of republican government, but against the very principles of civil liberty. They have decried all free government as inconsistent with the order of society, and have indulged themselves in malicious exultation over its friends and partisans."

And again they say:

"It must carry its agency to the persons of the citizens. It must stand in need of no intermediate legislation; but must itself be empowered to employ the arm of the ordinary magistrate to execute its own resolutions. The majesty of the national authority must be manifested through the medium of the courts of justice."

After reading these extracts, Mr. B. said: It was to get rid of the evils of the old confederation that the present Union was formed; and, having formed it, they who formed it undertook to make it perpetual, and for that purpose had recourse to all the sanctions held sacred among men—commands, prohibitions, oaths. The States were forbid to form compacts or agreements with each other; the constitution and the laws made in pursuance of it, were declared to be the supreme law of the land; and all authorities, State and federal, legislative, executive, and judicial, were to be sworn to support it. The resolutions which have been read contradict all this; and the General Assembly mistook their own powers as much as they mistook the sentiments of the people of Missouri when they adopted them.

CHAPTER XC.

PUBLIC LANDS:—DISTRIBUTION OF PROCEEDS.

Mr. Clay renewed, at this session, 1832–'33, the bill which he had brought in the session before, and which had passed the Senate, to divide the net proceeds of the sales of public lands among the States, to be applied to such purposes as the legislatures of the respective States should think proper. His principal arguments, in favor of the bill, were: *first*, the aid which the distribution would give to the States, in developing their resources and promoting their prosperity; *secondly*, the advantage to the federal government, in settling the question of the mode of disposing of the public lands. He explained his bill, which, at first, contained a specification of the objects to which the States should apply the dividends they received, which was struck out, in the progress of the bill, and stated its provisions to be:

"To set apart, for the benefit of the new States, twelve and a half per cent., out of the aggregate proceeds, in addition to the five per cent., which was now allowed to them by compact, before any division took place among the

States generally. It was thus proposed to assign, in the first place, seventeen and a half per cent. to the new States, and then to divide the whole of the residue among the twenty-four States. And, in order to do away any inequality among the new States, grants are specifically made by the bill to those who had not received, heretofore, as much lands as the rest of the new States, from the general government, so as to put all the new States on an equal footing. This twelve and a half per cent., to the new States, to be at their disposal, for either education or internal improvement, and the residue to be at the disposition of the States, subject to no other limitation than this: that it shall be at their option to apply the amount received either to the purposes of education, or the colonization of free people of color, or for internal improvements, or in debts which may have been contracted for internal improvements. And, with respect to the duration of this scheme of distribution proposed by the bill, it is limited to five years, unless hostilities shall occur between the United States and any foreign power; in which event, the proceeds are to be applied to the carrying on such war, with vigor and effect, against any common enemy with whom we may be brought in contact. After the conclusion of peace, and after the discharge of the debt created by any such war, the aggregate funds to return to that peaceful destination to which it was the intention of the bill that they should now be directed, that is, to the improvement of the moral and physical condition of the country, and the promotion of the public happiness and prosperity."

He then spoke of the advantages of settling the question of the manner of disposing of the public lands, and said:

"The first remark which seemed to him to be called for, in reference to this subject, was as to the expediency, he would say the necessity, of its immediate settlement. On this point, he was happy to believe that there was a unanimous concurrence of opinion in that body. However they might differ as to the terms on which the distribution of these lands should be made, they all agreed that it was a question which ought to be promptly and finally, he hoped amicably, adjusted. No time more favorable than the present moment could be selected for the settlement of this question. The last session was much less favorable for the accomplishment of this object; and the reasons were sufficiently obvious, without any waste of time in their specification. If the question were not now settled, but if it were to be made the subject of an annual discussion, mixing itself up with all the measures of legislation, it would be felt in its influence upon all, would produce great dissensions both in and out of the House, and affect extensively all the great and important objects which might be before that body. They had had, in the several States, some experience on that subject; and, without going into any details on the subject, he would merely state that it was known, that, for a long period, the small amount of the public domain possessed by some of the States, in comparison with the quantity possessed by the general government, had been a cause of great agitation in the public mind, and had greatly influenced the course of legislation. Persons coming from the quarter of the State in which the public land was situated, united in sympathy and interest, constituted always a body who acted together, to promote their common object, either by donations to settlers, or reduction in the price of the public lands, or the relief of those who are debtors for the public domain; and were always ready, as men always will be, to second all those measures which look towards the accomplishment of the main object which they have in view. So, if this question were not now settled, it would be a source of inexpressible difficulty hereafter, influencing all the great interests of the country, in Congress, affecting great events without, and perhaps adding another to those unhappy causes of division, which unfortunately exist at this moment."

In his arguments in support of his bill, Mr. Clay looked to the lands as a source of revenue to the States or the federal government, from their sale, and not from their settlement and cultivation, and the revenue to be derived from the wealth and population to which their settlement would give rise; and, concluding with an encomium on his bill under the aspect of revenue from sales, he said:

"He could not conceive a more happy disposition of the proceeds of the public lands, than that which was provided by this bill. It was supposed that five years would be neither too long nor too short a period for a fair experiment. In case a war should break out, we may withdraw from its peaceful destination a sum of from two and a half to three and a half millions of dollars per annum, and apply it to a vigorous prosecution of the war—a sum which would pay the interest on sixty millions of dollars, which might be required to sustain the war, and a sum which is constantly and progressively increasing. It proposes, now that the general government has no use for the money, now that the surplus treasure is really a source of vexatious embarrassment to us, and gives rise to a succession of projects, to supply for a short time a fund to the States which want our assistance, to advance to them that which we do not want, and which they will apply to great beneficial national purposes; and, should war take place, to divert it to the vigorous support of the war; and, when it ceases, to apply it again to its peaceful purposes. And thus we may grow, from time to

time, with a fund which will endure for centuries, and which will augment with the growth of the nation, aiding the States in seasons of peace, and sustaining the general government in periods of war."

Mr. Calhoun deprecated this distribution of the land money as being dangerous in itself and unconstitutional, and as leading to the distribution of other revenue—in which he was prophetic. He said:

"He could not yield his assent to the mode which this bill proposed to settle the agitated question of the public lands. In addition to several objections of a minor character, he had an insuperable objection to the leading principle of the bill, which proposed to distribute the proceeds of the lands among the States. He believed it to be both dangerous and unconstitutional. He could not assent to the principle, that Congress had a right to denationalize the public funds. He agreed that the objection was not so decided in case of the proceeds of lands, as in that of revenue collected from taxes or duties. The senator from Ohio had adduced evidence from the deed of cession, which certainly countenanced the idea that the proceeds of the lands might be subject to the distribution proposed in the bill; but he was far from being satisfied that the argument was solid or conclusive. If the principle of distribution could be confined to the proceeds of the lands, he would acknowledge that his objection to the principle would be weakened.

"He dreaded the force of precedent, and he foresaw that the time would come when the example of the distribution of the proceeds of the public lands would be urged as a reason for distributing the revenue derived from other sources. Nor would the argument be devoid of plausibility. If we, of the Atlantic States, insist that the revenue of the West, derived from lands, should be equally distributed among all the States, we must not be surprised if the interior States should, in like manner, insist to distribute the proceeds of the customs, the great source of revenue in the Atlantic States. Should such a movement be successful, it must be obvious to every one, who is the least acquainted with the workings of the human heart, and the nature of government, that nothing would more certainly endanger the existence of the Union. The revenue is the power of the State, and to distribute its revenue is to dissolve its power into its original elements."

Attempts were made to postpone the bill to the next session, which failed; and it passed the Senate by a vote of 24 to 20.

YEAS.—Messrs. Bell, Chambers, Clay, Clayton, Dallas, Dickerson, Dudley, Ewing, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Poindexter, Prentiss, Robbins, Ruggles, Seymour, Silsbee, Sprague, Tomlinson, Waggaman, Wilkins—24.

NAYS.—Messrs. Benton, Black, Brown, Buckner, Calhoun, Forsyth, Grundy, Hill, Kane, King, Mangum, Miller, Moore, Rives, Robinson, Smith, Tipton, Tyler, White, Wright—20.

The bill went to the House and received amendments, which did not obtain the concurrence of the Senate until midnight of the first of March, which, being the short session, was within twenty-four hours of the constitutional termination of the Congress, which was limited to the 3d—which falling this year on Sunday, the Congress would adjourn at midnight of the 2nd. Further efforts were made to postpone it, and upon the ground that, in a bill of that magnitude and novelty, the President was entitled to the full ten days for the consideration of it which the constitution allowed him, and he would have but half a day; for if passed that night it could only reach him in the forenoon of the next day—leaving him but half a day for his consideration of the measure, where the constitution allowed him ten; and that half day engrossed with all crowded business of an expiring session. The next evening, the President attended, as usual, in a room adjoining the Senate chamber, to be at hand to sign bills and make nominations. It was some hours in the night when the President sent for me, and withdrawing into the recess of a window, told me that he had a veto message ready on the land bill, but doubted about sending it in, lest there should not be a full Senate; and intimated his apprehension that Mr. Calhoun and some of his friends might be absent, and endanger the bill: and wished to consult me upon that point. I told him I would go and reconnoitre the chamber, and adjacent rooms; did so—found that Mr. Calhoun and his immediate friends were absent—returned and informed him, when he said he would keep the bill until the next session, and then return it with a fully considered message—his present one being brief, and not such as to show his views fully. I told him I thought he ought to do so—that such a measure ought not to be passed in the last hours of a session, in a thin Senate, and upon an imperfect view of his objections; and that the public good required it to be held up. It was so; and during the long vacation of nine months which intervened before the next session, the opposition presses

and orators kept the country filled with denunciations of the enormity of his conduct in "*pocketing*" the bill—as if it had been a case of "flat burglary," instead of being the exercise of a constitutional right, rendered most just and proper under the extraordinary circumstances which had attended the passage, and intended return of the bill. At the commencement of the ensuing session he returned the bill, with his well-considered objections, in an ample message, which, after going over a full history of the derivation of the lands, came to the following conclusions:

"1. That one of the fundamental principles, on which the confederation of the United States was originally based, was, that the waste lands of the West, within their limits, should be the common property of the United States.

"2. That those lands were ceded to the United States by the States which claimed them, and the cessions were accepted, on the express condition that they should be disposed of for the common benefit of the States, according to their respective proportions in the general charge and expenditure, and for no other purpose whatsoever.

"3. That, in execution of these solemn compacts, the Congress of the United States did, under the confederation, proceed to sell these lands, and put the avails into the common treasury; and, under the new constitution, did repeatedly pledge them for the payment of the public debt of the United States, by which pledge each State was expected to profit in proportion to the general charge to be made upon it for that object.

"These are the first principles of this whole subject, which, I think, cannot be contested by any one who examines the proceedings of the revolutionary Congress, the sessions of the several States, and the acts of Congress, under the new constitution. Keeping them deeply impressed upon the mind, let us proceed to examine how far the objects of the cessions have been completed, and see whether those compacts are not still obligatory upon the United States.

"The debt, for which these lands were pledged by Congress, may be considered as paid, and they are consequently released from that lien. But that pledge formed no part of the compacts with the States, or of the conditions upon which the cessions were made. It was a contract between new parties—between the United States and their creditors. Upon payment of the debt, the compacts remain in full force, and the obligation of the United States to dispose of the lands for the common benefit, is neither destroyed nor impaired. As they cannot now be executed in that mode, the only legitimate question which can arise is, in what other way are these lands to be hereafter disposed of for the common benefit of the several States, 'according to their respective and usual proportion in the general charge and expenditure?' The cessions of Virginia, North Carolina, and Georgia, in express terms, and all the rest impliedly, not only provide thus specifically the proportion, according to which each State shall profit by the proceeds of the land sales, but they proceed to declare that they shall be 'faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatsoever.' This is the fundamental law of the land, at this moment, growing out of compacts which are older than the constitution, and formed the corner stone on which the Union itself was erected.

"In the practice of the government, the proceeds of the public lands have not been set apart as a separate fund for the payment of the public debt, but have been, and are now, paid into the treasury, where they constitute a part of the aggregate of revenue, upon which the government draws, as well for its current expenditures as for payment of the public debt. In this manner, they have heretofore, and do now, lessen the general charge upon the people of the several States, in the exact proportions stipulated in the compacts.

"These general charges have been composed, not only of the public debt and the usual expenditures attending the civil and military administrations of the government, but of the amounts paid to the States, with which these compacts were formed; the amounts paid the Indians for their right of possession; the amounts paid for the purchase of Louisiana and Florida; and the amounts paid surveyors, registers, receivers, clerks, &c., employed in preparing for market, and selling, the western domain. From the origin of the land system, down to the 30th September, 1832, the amount expended for all these purpose has been about $49,701,280 and the amount received from the sales, deducting payments on account of roads, &c., about $38,386,624. The revenue arising from the public lands, therefore, has not been sufficient to meet the general charges on the treasury, which have grown out of them, by about $11,314,656. Yet, in having been applied to lessen those charges, the conditions of the compacts have been thus far fulfilled, and each State has profited according to its usual proportion in the general charge and expenditure. The annual proceeds of land sales have increased, and the charges have diminished; so that, at a reduced price, those lands would now defray all current charges growing out of them, and save the treasury from further advances on their account. Their original intent and object, therefore, would be accomplished, as fully as it has hitherto been, by reducing the price, and hereafter, as heretofore, bringing the proceeds into the treasury. Indeed, as this is the only mode in which the objects of the original compact can be attained, it may be considered, for all practical purposes, that it is one of their requirements.

"The bill before me begins with an entire subversion of every one of the compacts by which the United States became possessed of their western domain, and treats the subject as if they never had existence, and as if the United States were the original and unconditional owners of all the public lands. The first section directs—

"'That, from and after the 31st day of December, 1832, there shall be allowed and paid to each of the States of Ohio, Indiana, Illinois, Alabama, Missouri, Mississippi, and Louisiana, over and above what each of the said States is entitled to by the terms of the compacts entered into between them, respectively, upon their admission into the Union and the United States, the sum of twelve and a half per centum upon the net amount of the sales of the public lands, which, subsequent to the day aforesaid, shall be made within the several limits of the said States; which said sum of twelve and a half per centum shall be applied to some object or objects of internal improvement or education, within the said States, under the direction of their several legislatures.'

"This twelve and a half per centum is to be taken out of the net proceeds of the land sales, before any apportionment is made; and the same seven States, which are first to receive this proportion, are also to receive their due proportion of the residue, according to the ratio of general distribution.

"Now, waiving all considerations of equity or policy, in regard to this provision, what more need be said to demonstrate its objectionable character, than that it is in direct and undisguised violation of the pledge given by Congress to the States, before a single cession was made; that it abrogates the condition upon which some of the States came into the Union; and that it sets at nought the terms of cession spread upon the face of every grant under which the title to that portion of the public land is held by the federal government?

"In the apportionment of the remaining seven eighths of the proceeds, this bill, in a manner equally undisguised, violates the conditions upon which the United States acquired title to the ceded lands. Abandoning altogether the ratio of distribution, according to the general charge and expenditure provided by the compacts, it adopts that of the federal representative population. Virginia, and other States, which ceded their lands upon the express condition that they should receive a benefit from their sales, in proportion to their part of the general charge, are, by the bill, allowed only a portion of seven eighths of their proceeds, and that not in the proportion of general charge and expenditure, but in the ratio of their federal representative population.

"The constitution of the United States did not delegate to Congress the power to abrogate these compacts. On the contrary, by declaring that nothing in it 'shall be so construed as to prejudice any claims of the United States, or of any particular State,' it virtually provides that these compacts, and the rights they secure, shall remain untouched by the legislative power, which shall only make all 'needful rules and regulations' for carrying them into effect. All beyond this, would seem to be an assumption of undelegated power.

"These ancient compacts are invaluable monuments of an age of virtue, patriotism, and disinterestedness. They exhibit the price that great States, which had won liberty, were willing to pay for that Union, without which, they plainly saw, it could not be preserved. It was not for territory or State power that our revolutionary fathers took up arms; it was for individual liberty, and the right of self-government. The expulsion, from the continent, of British armies and British power was to them a barren conquest, if, through the collisions of the redeemed States, the individual rights for which they fought should become the prey of petty military tyrannies established at home. To avert such consequences, and throw around liberty the shield of union, States, whose relative strength, at the time, gave them a preponderating power, magnanimously sacrificed domains which would have made them the rivals of empires, only stipulating that they should be disposed of for the common benefit of themselves and the other confederated States. This enlightened policy produced union, and has secured liberty. It has made our waste lands to swarm with a busy people, and added many powerful States to our confederation. As well for the fruits which these noble works of our ancestors have produced, as for the devotedness in which they originated, we should hesitate before we demolish them.

"But there are other principles asserted in the bill, which would have impelled me to withhold my signature, had I not seen in it a violation of the compacts by which the United States acquired title to a large portion of the public lands. It reasserts the principle contained in the bill authorizing a subscription to the stock of the Maysville, Washington, Paris, and Lexington Turnpike Road Company, from which I was compelled to withhold my consent, for reasons contained in my message of the 27th May 1830, to the House of Representatives. The leading principle, then asserted, was, that Congress possesses no constitutional power to appropriate any part of the moneys of the United States for objects of a local character within the States. That principle, I cannot be mistaken in supposing, has received the unequivocal sanction of the American people, and all subsequent reflection has but satisfied me more thoroughly that the interests of our people, and the purity of our government, if not its existence, depend on its observance. The public lands are the common property of the United States, and the moneys arising from their sales are a part of the public revenue. This bill proposes to raise from,

and appropriate a portion of, this public revenue to certain States, providing expressly that it shall 'be applied to objects of internal improvement or education within those States,' and then proceeds to appropriate the balance to all the States, with the declaration that it shall be applied 'to such purposes as the legislatures of the said respective States shall deem proper.' The former appropriation is expressly for internal improvements or education, without qualification as to the kind of improvements, and, therefore, in express violation of the principle maintained in my objections to the turnpike road bill, above referred to. The latter appropriation is more broad, and gives the money to be applied to any local purpose whatsoever. It will not be denied, that, under the provisions of the bill, a portion of the money might have been applied to making the very road to which the bill of 1830 had reference, and must, of course, come within the scope of the same principle. If the money of the United States cannot be applied to local purposes through its own agents, as little can it be permitted to be thus expended through the agency of the State governments.

"It has been supposed that, with all the reductions in our revenue which could be speedily effected by Congress, without injury to the substantial interests of the country, there might be, for some years to come, a surplus of moneys in the treasury; and that there was, in principle, no objection to returning them to the people by whom they were paid. As the literal accomplishment of such an object is obviously impracticable, it was thought admissible, as the nearest approximation to it, to hand them over to the State governments, the more immediate representatives of the people, to be by them applied to the benefit of those to whom they properly belonged. The principle and the object was, to return to the people an unavoidable surplus of revenue which might have been paid by them under a system which could not at once be abandoned; but even this resource, which at one time seemed to be almost the only alternative to save the general government from grasping unlimited power over internal improvements, was suggested with doubts of its constitutionality.

"But this bill assumes a new principle. Its object is not to return to the people an unavoidable surplus of revenue paid in by them, but to create a surplus for distribution among the States. It seizes the entire proceeds of one source of revenue, and sets them apart as a surplus, making it necessary to raise the money for supporting the government, and meeting the general charges, from other sources. It even throws the entire land system upon the customs for its support, and makes the public lands a perpetual charge upon the treasury. It does not return to the people moneys accidentally or unavoidably paid by them to the government by which they are not wanted; but compels the people to pay moneys into the treasury for the mere purpose of creating a surplus for distribution to their State governments. If this principle be once admitted, it is not difficult to perceive to what consequences it may lead. Already this bill, by throwing the land system on the revenues from imports for support, virtually distributes among the States a part of those revenues. The proportion may be increased from time to time, without any departure from the principle now asserted, until the State governments shall derive all the funds necessary for their support from the treasury of the United States; or, if a sufficient supply should be obtained by some States and not by others, the deficient States might complain, and, to put an end to all further difficulty, Congress, without assuming any new principle, need go but one step further, and put the salaries of all the State governors, judges, and other officers, with a sufficient sum for other expenses, in their general appropriation bill.

"It appears to me that a more direct road to consolidation cannot be devised. Money is power, and in that government which pays all the public officers of the States, will all political power be substantially concentrated. The State governments, if governments they might be called, would lose all their independence and dignity. The economy which now distinguishes them would be converted into a profusion, limited only by the extent of the supply. Being the dependants of the general government, and looking to its treasury as the source of all their emoluments, the State officers, under whatever names they might pass, and by whatever forms their duties might be prescribed, would, in effect, be the mere stipendaries and instruments of the central power.

"I am quite sure that the intelligent people of our several States will be satisfied, on a little reflection, that it is neither wise nor safe to release the members of their local legislatures from the responsibility of levying the taxes necessary to support their State governments, and vest it in Congress, over most of whose members they have no control. They will not think it expedient that Congress shall be the tax-gatherer and paymaster of all their State governments, thus amalgamating all their officers into one mass of common interest and common feeling. It is too obvious that such a course would subvert our well-balanced system of government, and ultimately deprive us of the blessings now derived from our happy union.

"However willing I might be that any unavoidable surplus in the treasury should be returned to the people through their State governments, I cannot assent to the principle that a surplus may be created for the purpose of distribution. Viewing this bill as, in effect, assuming the right not only to create a surplus for that purpose, but to divide the contents of the treasury among the States without limitation, from whatever source they may be derived, and asserting the power to raise and appropriate money for the support of every State government and institution, as well as for making every

local improvement, however trivial, I cannot give it my assent.

"It is difficult to perceive what advantages would accrue to the old States or the new from the system of distribution which this bill proposes, if it were otherwise unobjectionable. It requires no argument to prove, that if three millions of dollars a year, or any other sum, shall be taken out of the treasury by this bill for distribution, it must be replaced by the same sum collected from the people through some other means. The old States will receive annually a sum of money from the treasury, but they will pay in a larger sum, together with the expenses of collection and distribution. It is only their proportion of seven eights of the proceeds of land sales which they are to receive, but they must pay their due proportion of the whole. Disguise it as we may, the bill proposes to them a dead loss in the ratio of eight to seven, in addition to expenses and other incidental losses. This assertion is not the less true because it may not at first be palpable. Their receipts will be in large sums, but their payments in small ones. The governments of the States will receive seven dollars, for which the people of the States will pay eight. The large sums received will be palpable to the senses; the small sums paid, it requires thought to identify. But a little consideration will satisfy the people that the effect is the same as if seven hundred dollars were given them from the public treasury, for which they were at the same time required to pay in taxes, direct or indirect, eight hundred.

"I deceive myself greatly if the new States would find their interests promoted by such a system as this bill proposes. Their true policy consists in the rapid settling and improvement of the waste lands within their limits. As a means of hastening those events, they have long been looking to a reduction in the price of public lands upon the final payment of the national debt. The effect of the proposed system would be to prevent that reduction. It is true, the bill reserves to Congress the power to reduce the price, but the effect of its details, as now arranged, would probably be forever to prevent its exercise.

"With the just men who inhabit the new States, it is a sufficient reason to reject this system, that it is in violation of the fundamental laws of the republic and its constitution. But if it were a mere question of interest or expediency, they would still reject it. They would not sell their bright prospect of increasing wealth and growing power at such a price. They would not place a sum of money to be paid into their treasuries, in competition with the settlement of their waste lands, and the increase of their population. They would not consider a small or large annual sum to be paid to their governments, and immediately expended, as an equivalent for that enduring wealth which is composed of flocks and herds, and cultivated farms. No temptation will allure them from that object of abiding interest, the settlement of their waste lands, and the increase of a hardy race of free citizens, their glory in peace and their defence in war.

"On the whole, I adhere to the opinion expressed by me in my annual message of 1832, that it is our true policy that the public lands shall cease, as soon as practicable, to be a source of revenue, except for the payment of those general charges which grow out of the acquisition of the lands, their survey, and sale. Although these expenses have not been met by the proceeds of sales heretofore, it is quite certain they will be hereafter, even after a considerable reduction in the price. By meeting in the treasury so much of the general charge as arises from that source, they will be hereafter, as they have been heretofore, disposed of for the common benefit of the United States, according to the compacts of cession. I do not doubt that it is the real interest of each and all the States in the Union, and particularly of the new States, that the price of these lands shall be reduced and graduated; and that, after they have been offered for a certain number of years, the refuse, remaining unsold, shall be abandoned to the States, and the machinery of our land system entirely withdrawn. It cannot be supposed the compacts intended that the United States should retain forever a title to lands within the States, which are of no value; and no doubt is entertained that the general interest would be best promoted by surrendering such lands to the States.

"This plan for disposing of the public lands impairs no principle, violates no compact, and deranges no system. Already has the price of those lands been reduced from two dollars per acre to one dollar and a quarter; and upon the will of Congress, it depends whether there shall be a further reduction. While the burdens of the East are diminishing by the reduction of the duties upon imports, it seems but equal justice that the chief burden of the West should be lightened in an equal degree at least. It would be just to the old States and the new, conciliate every interest, disarm the subject of all its dangers, and add another guaranty to the perpetuity of our happy Union."

Statement respecting the revenue derived from the public lands, accompanying the President's Message to the Senate, December 4th, 1833, stating his reasons for not approving the Land Bill:

Statement of the amount of money which has been paid by the United States for the title to the public lands, including the payments made under the Louisiana and Florida treaties; the compact with Georgia; the settlement with the Yazoo claimants; the contracts with the Indian tribes; and the expenditures for compensation to commissioners, clerks, surveyors, and other officers, employed by the United States for the

management and sale of the Western domain; the gross amount of money received into the treasury, as the proceeds of public lands, to the 30th of September, 1832; also, the net amount, after deducting five per cent., expended on account of roads within, and leading to the Western States, &c., and sums refunded on account of errors in the entries of public lands.

Payment on account of the purchase of Louisiana:

Principal, - - - - - -		$14,984,872 28	
Interest on	$11,250,000	8,529,353 43	
			$23,514,225 71

Payment on account of the purchase of Florida:

Principal, - - - - - - -	$4,985,599 82	
Interest to 30th September, 1832,	1,489,768 66	
		$6,475,368 48
Payment of compact with Georgia, - - - -		1,065,484 06
Payment of the settlement with the Yazoo claimants, - - - - - - - - - - -		1,830,808 04
Payment of contracts with the several Indian tribes (all expenses on account of Indians),		13,064,677 45
Payment of commissioners, clerks, and other officers, employed by the United States for the management and sale of the Western domain, - - - - - - - - - - - -		3,750,716 43
		$49,701,280 17
Amount of money received into the treasury as the proceeds of public lands to 30th September, 1832, - - - - - - - - - - -		$39,614,000 07
Deduct payments from the treasury on account of roads, &c., - - - - - - - -		1,227,375 94
		$38,386,624 13

T. L. SMITH, *Reg.*

TREASURY DEPARTMENT,
Register's Office, March 1, 1833.

Such was this ample and well-considered message, one of the wisest and most patriotic ever delivered by any President, and presenting General Jackson under the aspect of an immense elevation over the ordinary arts of men who run a popular career, and become candidates for popular votes. Such arts require addresses to popular interests, the conciliation of the interested passions, the gratification of cupidity, the favoring of the masses in the distribution of money or property as well as the enrichment of classes in undue advantages. General Jackson exhibits himself as equally elevated above all these arts—as far above seducing the masses with agrarian laws as above enriching the few with the plundering legislation of banks and tariffs; and the people felt this elevation, and did honor to themselves in the manner in which they appreciated it. Far from losing his popularity, he increased it, by every act of disdain which he exhibited for the ordinary arts of conciliating popular favor. His veto message, on this occasion was an exemplification of all the high qualities of the public man. He sat out with showing that these lands, so far as they were divided from the States, were granted as a common fund, to be disposed of for the benefit of all the States, according to their usual respective proportions in the general charge and expenditure, and for no other use or purpose whatsoever; and that by the principles of our government and sound policy, those acquired from foreign governments could only be disposed of in the same manner. In addition to these great reasons of principle and policy, the message clearly points out the mischief which any scheme of distribution will inflict upon the new States in preventing reductions in the price of the public lands—in preventing donations to settlers—and in preventing the cession of the unsalable lands to the States in which they lie; and recurs to his early messages in support of the policy, now that the public debt was paid, of looking to settlement and population as the chief objects to be derived from these lands, and for that purpose that they be sold to settlers at cost.

CHAPTER XCI.

COMMENCEMENT OF THE TWENTY-THIRD CONGRESS.—THE MEMBERS, AND PRESIDENT'S MESSAGE.

ON the second day of December, 1833, commenced the first session of the Twenty-third Congress, commonly called the Panic session—one of the most eventful and exciting which the country had ever seen, and abounding with high talent. The following is the list of members:

SENATE.

MAINE—Peleg Sprague, Ether Shepley.
NEW HAMPSHIRE—Samuel Bell, Isaac Hill.
MASSACHUSETTS—Daniel Webster, Nathaniel Silsbee.
RHODE ISLAND—Nehemiah R. Knight, Asher Robbins.
CONNECTICUT—Gideon Tomlinson, Nathan Smith.
VERMONT—Samuel Prentiss, Benjamin Swift.
NEW YORK—Silas Wright, N. P. Tallmadge.
NEW JERSEY—Theodore Frelinghuysen, S. L. Southard.
PENNSYLVANIA—William Wilkins, Samuel McKean.
DELAWARE—John M. Clayton, Arnold Naudain.

MARYLAND—Ezekiel F. Chambers, Joseph Kent.

VIRGINIA—Wm. C. Rives, John Tyler.

NORTH CAROLINA—Bedford Brown, W. P. Mangum.

SOUTH CAROLINA—J. C. Calhoun, William C. Preston.

GEORGIA—John Forsyth, John P. King.

KENTUCKY—George M. Bibb, Henry Clay.

TENNESSEE—Felix Grundy, Hugh L. White.

OHIO—Thomas Ewing, Thomas Morris.

LOUISIANA—G. A. Waggaman, Alexander Porter.

INDIANA—Wm. Hendricks, John Tipton.

MISSISSIPPI—George Poindexter, John Black.

ILLINOIS—Elias K. Kane, John M. Robinson.

ALABAMA—William R. King, Gabriel Moore.

MISSOURI—Thomas H. Benton, Lewis F. Linn.

HOUSE OF REPRESENTATIVES.

MAINE—George Evans, Joseph Hall, Leonard Jarvis, Edward Kavanagh, Moses Mason, Rufus McIntyre, Gorham Parks, Francis O. J. Smith.

NEW HAMPSHIRE—Benning M. Bean, Robert Burns, Joseph M. Harper, Henry Hubbard, Franklin Pierce.

MASSACHUSETTS—John Quincy Adams, Isaac C. Bates, William Baylies, George N. Briggs, Rufus Choate, John Davis, Edward Everett, Benjamin Gorham, George Grennell, jr., Gayton P. Osgood, John Reed.

RHODE ISLAND—Tristam Burges, Dutea J. Pearce.

CONNECTICUT—Noyes Barber, William W. Ellsworth, Samuel A. Foot, Jabez W. Huntington, Samuel Tweedy, Ebenezer Young.

VERMONT—Heman Allen, Benjamin F. Deming, Horace Everett, Hiland Hall, William Slade.

NEW YORK—John Adams, Samuel Beardsley, Abraham Bockee, Charles Bodle, John W. Brown, Churchill C. Cambreleng, Samuel Clark, John Cramer, Rowland Day, John Dickson, Millard Fillmore, Philo C. Fuller, William K. Fuller, Ransom H. Gillet, Nicoll Halsey, Gideon Hard, Samuel C. Hathaway, Abner Hazeltine, Edward Howell, Abel Huntington, Noadiah Johnson, Gerrit Y. Lansing, Cornelius W. Lawrence, George W. Lay, Abijah Mann, jr., Henry C. Martindale, Charles McVean, Henry Mitchell, Sherman Page, Job Pierson, Dudley Selden, William Taylor, Joel Turrill, Aaron Vanderpoel, Isaac B. Van Houten, Aaron Ward, Daniel Wardwell, Reuben Whallon, Campbell P. White, Frederick Whittlesey.

NEW JERSEY—Philemon Dickerson, Samuel Fowler, Thomas Lee, James Parker, Ferdinand S. Schenck, William N. Shinn.

PENNSYLVANIA—Joseph B. Anthony, John Banks, Charles A. Barnitz, Andrew Beaumont, Horace Binney, George Burd, George Chambers, William Clark, Richard Coulter, Edward Darlington, Harmar Denny, John Galbraith, James Harper, Samuel S. Harrison, William Hiester, Joseph Henderson, Henry King, John Laporte, Joel K. Mann, Thomas M. T. McKennan, Jesse Miller, Henry A. Muhlenberg, David Potts, jr., Robert Ramsay, Andrew Stewart, Joel B. Sutherland, David E. Wagener, John G. Watmough.

DELAWARE—John J. Milligan.

MARYLAND—Richard B. Carmichael, Littleton P. Dennis, James P. Heath, William Cost Johnson, Isaac McKim, John T. Stoddert, Francis Thomas, James Turner.

VIRGINIA—John J. Allen, William S. Archer, James M. H. Beale, Thomas T. Bouldin, Joseph W. Chinn, Nathaniel H. Claiborne, Thomas Davenport, John H. Fulton, James H. Gholson, William F. Gordon, George Loyall, Edward Lucas, John Y. Mason, William McComas, Charles F. Mercer, Samuel McDowell Moore, John M. Patton, Andrew Stevenson, William P. Taylor, Edgar C. Wilson, Henry A. Wise.

NORTH CAROLINA—Daniel L. Barringer, Jesse A. Bynum, Henry W. Connor, Edmund Deberry, James Graham, Thomas H. Hall, Micajah T. Hawkins, James J. McKay, Abraham Rencher, William B. Shepard, Augustine H. Shepperd, Jesse Speight, Lewis Williams.

SOUTH CAROLINA—James Blair, William K. Clowney, Warren R. Davis, John M. Felder, William J. Grayson, John K. Griffin, George McDuffie, Henry L. Pinckney.

GEORGIA—Augustine S. Clayton, John Coffee, Thomas F. Foster, Roger L. Gamble, George R. Gilmer, Seaborn Jones, William Schley, James M. Wayne, Richard H. Wilde.

KENTUCKY—Chilton Allan, Martin Beaty, Thomas Chilton, Amos Davis, Benjamin Hardin, Albert G. Hawes, Richard M. Johnson, James Love, Chittenden Lyon, Thomas A. Marshall, Patrick H. Pope, Christopher Tompkins.

TENNESSEE—John Bell, John Blair, Samuel Bunch, David Crockett, David W. Dickinson, William C. Dunlap, John B. Forester, William M. Inge, Cave Johnson, Luke Lea, Balie Peyton, James K. Polk, James Standifer.

OHIO—William Allen, James M. Bell, John Chaney, Thomas Corwin, Joseph H. Crane, Thomas L. Hamer, Benjamin Jones, Henry H. Leavitt, Robert T. Lytle, Jeremiah McLean, Robert Mitchell, William Patterson, Jonathan Sloane, David Spangler, John Thomson, Joseph Vance, Samuel F. Vinton, Taylor Webster, Elisha Whittlesey.

LOUISIANA—Philemon Thomas, Edward D. White.

INDIANA—Ratliff Boon, John Carr, John Ewing, Edward A. Hannegan, George L. Kinnard, Amos Lane, Jonathan McCarty.

MISSISSIPPI—Harry Cage, Franklin E. Plumer.

ILLINOIS—Zadok Casey, Joseph Duncan, Charles Slade.

ALABAMA—Clement C. Clay, Dixon H. Lewis, Samuel W. Mardis, John McKinley, John Murphy.

MISSOURI—William H. Ashley, John Bull.

Lucius Lyon also appeared as the delegate from the territory of Michigan.

Ambrose H. Sevier also appeared as the delegate from the territory of Arkansas,—Joseph M. White from Florida.

Mr. Andrew Stevenson, who had been chosen Speaker of the House for the three succeeding Congresses, was re-elected by a great majority —indicating the administration strength, and his own popularity. The annual message was immediately sent in, and presented a gratifying view of our foreign relations—all nations being in peace and amity with us, and many giving fresh proofs of friendship, either in new treaties formed, or indemnities made for previous injuries. The state of the finances was then adverted to, and shown to be in the most favorable condition. The message said:

"It gives me great pleasure to congratulate you upon the prosperous condition of the finances of the country, as will appear from the report which the Secretary of the Treasury will, in due time, lay before you. The receipts into the Treasury during the present year will amount to more than thirty-two millions of dollars. The revenue derived from customs will, it is believed, be more than twenty-eight millions, and the public lands will yield about three millions. The expenditures within the year, for all objects, including two millions five hundred and seventy-two thousand two hundred and forty dollars and ninety-nine cents on account of the public debt, will not amount to twenty-five millions, and a large balance will remain in the Treasury after satisfying all the appropriations chargeable on the revenue for the present year."

The act of the last session, called the "compromise," the President recommended to observance, "unless it should be found to produce more revenue than the necessities of the government required." The extinction of the public debt presented, in the opinion of the President, the proper occasion for organizing a system of expenditure on the principles of the strictest economy consistent with the public interest; and the passage of the message in relation to that point was particularly grateful to the old friends of an economical administration of the government. It said:

"But, while I forbear to recommend any further reduction of the duties, beyond that already provided for by the existing laws, I must earnestly and respectfully press upon Congress the importance of abstaining from all appropriations which are not absolutely required for the public interests, and authorized by the powers clearly delegated to the United States. We are beginning a new era in our government. The national debt, which has so long been a burden on the Treasury, will be finally discharged in the course of the ensuing year. No more money will afterwards be needed than what may be necessary to meet the ordinary expenses of the government. Now then is the proper moment to fix our system of expenditure on firm and durable principles; and I cannot too strongly urge the necessity of a rigid economy, and an inflexible determination not to enlarge the income beyond the real necessities of the government, and not to increase the wants of the government by unnecessary and profuse expenditures. If a contrary course should be pursued, it may happen that the revenue of 1834 will fall short of the demands upon it; and after reducing the tariff in order to lighten the burdens of the people, and providing for a still further reduction to take effect hereafter, it would be much to be deplored if, at the end of another year, we should find ourselves obliged to retrace our steps, and impose additional taxes to meet unnecessary expenditures."

The part of the message, however, which gave the paper uncommon emphasis, and caused it to be received with opposite, and violent emotions by different parts of the community, was that which related to the Bank of the United States—its believed condition—and the consequent removal of the public deposits from its keeping. The deposits had been removed—done in vacation by the order of the President—on the ground of insecurity, as well as of misconduct in the corporation: and as Congress, at the previous session had declared its belief of their safety, this act of the President had already become a point of vehement newspaper attack upon him —destined to be continued in the halls of Congress. His conduct in this removal, and the reasons for it, were thus communicated:

"Since the last adjournment of Congress, the Secretary of the Treasury has directed the money of the United States to be deposited in certain State banks designated by him, and he will immediately lay before you his reasons for this direction. I concur with him entirely in the view he has taken of the subject; and, some months before the removal, I urged upon the department the propriety of taking that step. The near approach of the day on which the charter will expire, as well as the conduct of the bank, appeared to me to call for this measure upon the high considerations of public interest and public duty. The extent of its misconduct, however, although known to be great, was not at that time fully developed by proof. It was not until late in the month of August, that I received from the government directors an official report,

establishing beyond question that this great and powerful institution had been actively engaged in attemping to influence the elections of the public officers by means of its money; and that, in violation of the express provisions of its charter, it had, by a formal resolution, placed its funds at the disposition of its President, to be employed in sustaining the political power of the bank. A copy of this resolution is contained in the report of the government directors, before referred to; and however the object may be disguised by cautious language, no one can doubt that this money was in truth intended for electioneering purposes, and the particular uses to which it was proved to have been applied, abundantly show that it was so understood. Not only was the evidence complete as to the past application of the money and power of the bank to electioneering purposes, but that the resolution of the board of directors authorized the same course to be pursued in future.

"It being thus established, by unquestionable proof, that the Bank of the United States was converted into a permanent electioneering engine, it appeared to me that the path of duty which the Executive department of the government ought to pursue, was not doubtful. As by the terms of the bank charter, no officer but the Secretary of the Treasury could remove the deposits, it seemed to me that this authority ought to be at once exerted to deprive that great corporation of the support and countenance of the government in such a use of its funds, and such an exertion of its power. In this point of the case, the question is distinctly presented, whether the people of the United States are to govern through representatives chosen by their unbiassed suffrages, or whether the money and power of a great corporation are to be secretly exerted to influence their judgment, and control their decisions. It must now be determined whether the bank is to have its candidates for all offices in the country, from the highest to the lowest, or whether candidates on both sides of political questions shall be brought forward as heretofore, and supported by the usual means.

"At this time, the efforts of the bank to control public opinion, through the distresses of some and the fears of others, are equally apparent, and, if possible, more objectionable. By a curtailment of its accommodations, more rapid than any emergency requires, and even while it retains specie to an almost unprecedented amount in its vaults, it is attempting to produce great embarrassment in one portion of the community, while, through presses known to have been sustained by its money, it attempts, by unfounded alarms, to create a panic in all.

"These are the means by which it seems to expect that it can force a restoration of the deposits, and, as a necessary consequence, extort from Congress a renewal of its charter. I am happy to know that, through the good sense of our people, the effort to get up a panic has hitherto failed, and that, through the increased accommodations which the State banks have been enabled to afford, no public distress has followed the exertions of the bank; and it cannot be doubted that the exercise of its power, and the expenditure of its money, as well as its efforts to spread groundless alarm, will be met and rebuked as they deserve. In my own sphere of duty, I should feel myself called on, by the facts disclosed, to order a *scire facias* against the bank, with a view to put an end to the chartered rights it has so palpably violated, were it not that the charter itself will expire as soon as a decision would probably be obtained from the court of last resort.

"I called the attention of Congress to this subject in my last annual message, and informed them that such measures as were within the reach of the Secretary of the Treasury, had been taken to enable him to judge whether the public deposits in the Bank of the United States were entirely safe; but that as his single powers might be inadequate to the object, I recommended the subject to Congress, as worthy of their serious investigation: declaring it as my opinion that an inquiry into the transactions of that institution, embracing the branches as well as the principal bank, was called for by the credit which was given throughout the country to many serious charges impeaching their character, and which, if true, might justly excite the apprehension that they were no longer a safe depository for the public money. The extent to which the examination, thus recommended, was gone into, is spread upon your journals, and is too well known to require to be stated. Such as was made resulted in a report from a majority of the Committee of Ways and Means, touching certain specified points only, concluding with a resolution that the government deposits might safely be continued in the Bank of the United States. This resolution was adopted at the close of the session, by the vote of a majority of the House of Representatives."

The message concluded with renewing the recommendation, which the President had annually made since his first election, in favor of so amending the constitution in the article of the presidential and vice-presidential elections, as to give the choice of the two first officers of the government to a direct vote of the people, and that "every intermediate agency in the election of those officers should be removed." This recommendation, like all which preceded it, remained without practical results. For ten years committees had reported amendments, and members had supported them, but without obtaining in Congress the requisite two thirds to refer the proposition of amendment to the vote of the

people. Three causes combined always to prevent the concurrence of that majority: 1. The conservative spirit of many, who are unwilling, under any circumstances, to touch an existing institution. 2. The enemies of popular elections, who deem it unsafe to lodge the high power of the presidential election, directly in the hands of the people. 3. The intriguers, who wish to manage these elections for their own benefit, and have no means of doing it except through the agency of intermediate bodies. The most potent of these agencies, and the one in fact which controls all the others, is the one of latest and most spontaneous growth, called "conventions"—originally adopted to supersede the caucus system of nominations, but which retains all the evils of that system, and others peculiar to itself. They are still attended by members of Congress, and with less responsibility to their constituents than when acting in a Congress caucus. A large proportion of the delegates are either self-appointed or so intriguingly appointed, and by such small numbers, as to constitute a burlesque upon popular representation. Delegates even transfer their functions, and make proxies—a prerogative only allowed to peers of the realm, in England, in their parliamentary voting, because they are legislators in their own right, and represent, each one, himself, as his own constituent body, and owing responsibility to no one. They meet in taverns, the delegates of some of the large States, attended by one or two thousand backers, supplied with money, and making all the public appliances of feasting and speaking, to conciliate or control votes, which ample means and determined zeal can supply, in a case in which a personal benefit is expected. The minority rules, that is to say, baffles the majority until it yields, and consents to a "compromise," accepting for that purpose the person whom the minority has held in reserve for that purpose; and this minority of one third, which governs two thirds, is itself usually governed by a few managers. And to complete the exclusion of the people from all efficient control, in the selection of a presidential candidate, an interlocutory committee is generally appointed out of its members to act from one convention to another—during the whole interval of four years between their periodical assemblages—to guide and conduct the public mind, in the different States, to the support of the person on whom they have secretly agreed. After the nomination is over, and the election effected, the managers in these nominations openly repair to the new President, if they have been successful, and demand rewards for their labor, in the shape of offices for themselves and connections. This is the way that presidential elections are now made in the United States; for, a party nomination is an election, if the party is strong enough to make it; and, if one is not, the other is; for, both parties act alike, and thus the mass of the people have no more part in selecting the person who is to be their President than the subjects of hereditary monarchs have in begetting the child who is to rule over them. To such a point is the greatest of our elections now sunk by the arts of "intermediate agencies;" and it may be safely assumed, that the history of free elective governments affords no instance of such an abandonment, on the part of legal voters, of their great constitutional privileges, and quiet sinking down of the millions to the automaton performance of delivering their votes as the few have directed.

CHAPTER XCII.

REMOVAL OF THE DEPOSITS FROM THE BANK OF THE UNITED STATES.

THE fact of this removal was communicated to Congress, in the annual message of the President; the reasons for it, and the mode of doing it, were reserved for a separate communication; and especially a report from the Secretary of the Treasury, to whom belonged the absolute right of the removal, without assignment of any reasons except to Congress, after the act was done. The order for the removal, as it was called—for it was only an order to the collectors of revenue to cease making their deposits in that bank, leaving the amount actually in it, to be drawn out of intervals, and in different sums, according to the course at the government disbursements—was issued the 22d of September, and signed by Roger B. Taney, Esq., the new Secretary of the Treasury, appointed in place of Mr. Wm. J. Duane, who, refusing to make the re-

moval, upon the request of the President, was himself removed. This measure (the ceasing to deposit the public moneys with the Bank of the United States) was the President's own measure, conceived by him, carried out by him, defended by him, and its fate dependent upon him. He had coadjutors in every part of the business, but the measure was his own; for this heroic civil measure, like a heroic military resolve, had to be the offspring of one great mind—self-acting and poised—seeing its way through all difficulties and dangers; and discerning ultimate triumph over all obstacles in the determination to conquer them, or to perish. Councils are good for safety, not for heroism—good for escapes from perils, and for retreats, but for action, and especially high and daring action, but one mind is wanted. The removal of the deposits was an act of that kind—high and daring, and requiring as much nerve as any enterprise of arms, in which the President had ever been engaged. His military exploits had been of his own conception; his great civil acts were to be the same: more impeded than promoted by councils. And thus it was in this case. The majority of his cabinet was against him. His Secretary of the Treasury refused to execute his will. A few only—a fraction of the cabinet and some friends—concurred heartily in the act: Mr. Taney, attorney general, Mr. Kendall, Mr. Francis P. Blair, editor of the *Globe;* and some few others.

He took his measures carefully and deliberately, and with due regard to keeping himself demonstrably, as well as actually right. Observation had only confirmed his opinion, communicated to the previous Congress, of the misconduct of the institution, and the insecurity of the public moneys in it: and the almost unanimous vote of the House of Representatives to the contrary, made no impression upon his strong conviction. Denied a legislative examination into its affairs, he determined upon an executive one, through inquiries put to the government directors, and the researches into the state of the books, which the Secretary of the Treasury had a right to make. Four of those directors, namely, Messrs. Henry D. Gilpin, John T. Sullivan, Peter Wager, and Hugh McEldery, made two reports to the President, according to the duty assigned them, in which they showed great misconduct in its management, and a great perversion of its funds to undue and political purposes. Some extracts from these reports will show the nature of this report, the names of persons to whom money was paid being omitted, as the only object, in making the extracts, is to show the conduct of the bank, and not to disturb or affect any individuals.

"On the 30th November, 1830, it is stated on the minutes, that 'the president submitted to the board a copy of an article on banks and currency, just published in the *American Quarterly Review* of this city, containing a favorable notice of this institution, and suggested the expediency of making the views of the author more extensively known to the public than they can be by means of the subscription list.' Whereupon, it was, on motion, '*Resolved*, That the president be authorized to take such measures, in regard to the circulation of the contents of the said article, either in whole or in part, as he may deem most for the interests of the bank.' On the 11th March, 1831, it again appears by the minutes that 'the president stated to the board, that, in consequence of the general desire expressed by the directors, at one of their meetings of the last year, subsequent to the adjournment of Congress, and a verbal understanding with the board, measures had been taken by him, in the course of that year, for furnishing numerous copies of the reports of General Smith and Mr. McDuffie on the subject of this bank, and for widely disseminating their contents through the United States; and that he has since, by virtue of the authority given him by a resolution of this board, on the 30th day of November last, caused a large edition of Mr. Gallatin's essay on banks and currency to be published and circulated, in like manner, at the expense of the bank. He suggested, at the same time, the propriety and expediency of extending still more widely a knowledge of the concerns of this institution, by means of the republication of other valuable articles, which had issued from the daily and periodical press.' Whereupon, it was, on motion, '*Resolved*, That the president is hereby authorized to cause to be prepared and circulated, such documents and papers as may communicate to the people information, in regard to the nature and operations of the bank.'

"In pursuance, it is presumed, of these resolutions, the item of stationary and printing was increased, during the first half year of 1831, to the enormous sum of $29,979 92, exceeding that of the previous half year by $23,000, and exceeding the semi-annual expenditure of 1829, upwards of $26,000. The expense account itself, as made up in the book which was submitted to us, contained very little information rela-

tive to the particulars of this expenditure, and we are obliged, in order to obtain them, to resort to an inspection of the vouchers. Among other sums, was one of $7,801, stated to have been paid on orders of the president, under the resolution of 11th March, 1831, and the orders themselves were the only vouchers of the expenditure which we found on file. Some of the orders, to the amount of about $1,800, stated that the expenditure was for distributing General Smith's and Mr. McDuffie's reports, and Mr. Gallatin's pamphlet; but the rest stated generally that it was made under the resolution of 11th of March, 1831. There were also numerous bills and receipts for expenditures to individuals: $1,300 for distributing Mr. Gallatin's pamphlet; $1,675 75 for 5,000 copies of General Smith's and Mr. McDuffie's reports, &c.; $440 for 11,000 extra papers; of the *American Sentinel*, $125 74 for printing, folding, packing, and postage on 3,000 extras; $1,830 27 for upwards of 50,000 copies of the *National Gazette*, and supplements containing addresses to members of State legislatures, reviews of Mr. Benton's speech, abstracts of Mr. Gallatin's article from the *American Quarterly Review*, and editorial article on the project of a Treasury Bank; $1,447 75 for 25,000 copies of the reports of Mr. McDuffie and General Smith, and for 25,000 copies of the address to members of the State legislatures, agreeably to order; $2,850 for 01,000 copies of 'Gallatin on Banking,' and 2,000 copies of Professor Tucker's article.

"During the second half year of 1831, the item of stationery and printing was $13,224 87, of which $5,010 were paid on orders of the president, and stated generally to be under the resolution of 11th March, 1831, and other sums were paid to individuals, as in the previous account, for printing and distributing documents.

"During the first half year of 1832, the item of stationery and printing was $12,134 16, of which $2,150 was stated to have been paid on orders of the president, under the resolution of 11th March, 1831. There are also various individual payments, of which we noticed $106 38 for one thousand copies of the review of Mr. Benton's speech; $200 for one thousand copies of the *Saturday Courier;* $1,176 for twenty thousand copies of a pamphlet concerning the bank, and six thousand copies of the minority report relative to the bank; $1,800 for three hundred copies of Clarke & Hall's bank book. During the last half year of 1832, the item of stationery and printing rose to $26,543 72, of which $6,350 are stated to have been paid on orders of the president, under the resolution of 11th March, 1831. Among the specified charges we observe $821 78 for printing a review of the veto; $1,371 04 for four thousand copies of Mr. Ewing's speech, bank documents, and review of the veto; $4,106 13 for sixty-three thousand copies of Mr. Webster's speech, Mr. Adams's and Mr. McDuffie's reports, and the majority and minority reports; $295 for fourteen thousand extras of *The Protector*, containing bank documents; $2,583 50 for printing and distributing reports, Mr. Webster's speech, &c. $150 12 for printing the speeches of Messrs. Clay, Ewing, and Smith, and Mr. Adams's report; $1,512 75 to Mr. Clark, for printing Mr. Webster's speech and articles on the veto, and $2,422 65 for fifty-two thousand five hundred copies of Mr. Webster's speech. There is also a charge of $4,040 paid on orders of the president, stating that it is for expenses in measures for protecting the bank against a run on the Western branches.

"During the first half year of 1833, the item of stationery and printing was $9,093 59, of which $2,600 are stated to have been paid on orders of the president, under the resolution of 11th March, 1831. There is also a charge of $800 for printing the report of the exchange committee."

These various items, amounting to about $80,000, all explain themselves by their names and dates—every name of an item referring to a political purpose, and every date corresponding with the impending questions of the recharter and the presidential election; and all charged to the expense account of the bank—a head of account limited, by the nature of the institution, so far as printing was concerned, to the printing necessary for the conducting of its own business; yet in the whole sum, making the total of $80,000, there is not an item of that kind included. To expose, or correct these abuses, the government directors submitted the following resolution to the board:

"Whereas, it appears by the expense account of the bank for the years 1831 and 1832, that upwards of $80,000 were expended and charged under the head of stationery and printing during that period; that a large proportion of this sum was paid to the proprietors of newspapers and periodical journals, and for the printing, distribution, and postage of immense numbers of pamphlets and newspapers; and that about $20,000 were expended under the resolutions of 30th November, 1830, and 11th March, 1831, without any account of the manner in which, or the persons to whom, they were disbursed: and whereas it is expedient and proper that the particulars of this expenditure, so large and unusual, which can now be ascertained only by the examinaton of numerous bills and receipts, should be so stated as to be readily submitted to, and examined by, the board of directors and the stockholders: Therefore, *Resolved*, That the cashier furnish to the board, at as early a day as possible, a full and particular statement of all these expenditures, designating the sums of

money paid to each person, the quantity and names of the documents furnished by him, and his charges for the distribution and postage of the same; together with as full a statement as may be of the expenditures under the resolutions of 30th November, 1830, and 11th March, 1831. That he ascertain whether expenditures of the same character have been made at any of the offices, and if so, procure similar statements thereof, with the authority on which they were made. That the said resolutions be rescinded, and no further expenditures made under the same."

This resolution was rejected by the board, and in place of it another was adopted, declaring perfect confidence in the president of the bank, and directing him to continue his expenditures under the two resolves of November and March according to his discretion;—thus continuing to him the power of irresponsible expenditure, both in amount and object, to any extent that he pleased. The reports also showed that the government directors were treated with the indignity of being virtually excluded, both from the transactions of the bank, and the knowledge of them; and that the charter was violated to effect these outrages. As an instance, this is given: the exchange committee was in itself, and even confined to its proper duties, that of buying and selling exchange, was a very important one, having the application of an immense amount of the funds of the bank. While confined to its proper duties, it was changed monthly, and the directors served upon it by turns; so that by the process of rotation and speedy renewal, every member of the directory was kept well informed of the transactions of this committee, and had their due share in all its great operations. But at this time—(time of the renewed charter and the presidential election)—both the duties of the committee, and its mode of appointment were altered; discounting of notes was permitted to it, and the appointment of its members was invested in Mr. Biddle; and no government director was henceforth put upon it. Thus, a few directors made the loans in the committee's room, which by the charter could only be made by seven directors at the board; and the government directors, far from having any voice in these exchange loans, were ignorant of them until afterwards found on the books. It was in this exchange committee that most of the loans to members of Congress were made, and under whose operations the greatest losses were eventually incurred. The report of the four directors also showed other great misconduct on the part of the bank, one of which was to nearly double its discounts at the approaching termination of the charter, running them up in less than a year and a half from about forty-two and a half to about seventy and a half millions of dollars. General Jackson was not the man to tolerate these illegalities, corruptions and indignities. He, therefore, determined on ceasing to use the institution any longer as a place of deposit for the public moneys; and accordingly communicated his intention to the cabinet, all of whom had been requested to assist him in his deliberations on the subject. The major part of them dissented from his design; whereupon he assembled them on the 22nd of September, and read to them a paper, of which the following are the more essential parts:

"Having carefully and anxiously considered all the facts and arguments which have been submitted to him, relative to a removal of the public deposits from the Bank of the United States, the President deems it his duty to communicate in this manner to his cabinet the final conclusions of his own mind, and the reasons on which they are founded, in order to put them in durable form, and to prevent misconceptions.

"The President's convictions of the dangerous tendencies of the Bank of the United States, since signally illustrated by its own acts, were so overpowering when he entered on the duties of chief magistrate, that he felt it his duty, notwithstanding the objections of the friends by whom he was surrounded, to avail himself of the first occasion to call the attention of Congress and the people to the question of its recharter. The opinions expressed in his annual message of December, 1829, were reiterated in those of December, 1830 and 1831, and in that of 1830, he threw out for consideration some suggestions in relation to a substitute. At the session of 1831-'32 an act was passed by a majority of both Houses of Congress rechartering the present bank, upon which the President felt it his duty to put his constitutional veto. In his message, returning that act, he repeated and enlarged upon the principles and views briefly asserted in his annual messages, declaring the bank to be, in his opinion, both inexpedient and unconstitutional, and announcing to his countrymen, very unequivocally, his firm determination never to sanction, by his approval, the continu-

ance of that institution or the establishment of any other upon similar principles.

"There are strong reasons for believing that the motive of the bank in asking for a recharter at that session of Congress, was to make it a leading question in the election of a President of the United States the ensuing November, and all steps deemed necessary were taken to procure from the people a reversal of the President's decision.

"Although the charter was approaching its termination, and the bank was aware that it was the intention of the government to use the public deposit as fast as it has accrued, in the payment of the public debt, yet did it extend its loans from January, 1831, to May, 1832, from $42,402,304 24 to $70,428,070 72, being an increase of $28,025,766 48, in sixteen months. It is confidently believed that the leading object of this immense extension of its loans was to bring as large a portion of the people as possible under its power and influence; and it has been disclosed that some of the largest sums were granted on very unusual terms to the conductors of the public press. In some of these cases, the motive was made manifest by the nominal or insufficient security taken for the loans, by the large amounts discounted, by the extraordinary time allowed for payment, and especially by the subsequent conduct of those receiving the accommodations.

"Having taken these preliminary steps to obtain control over public opinion, the bank came into Congress and asked a new charter. The object avowed by many of the advocates of the bank, was to *put the President to the test*, that the country might know his final determination relative to the bank prior to the ensuing election. Many documents and articles were printed and circulated at the expense of the bank, to bring the people to a favorable decision upon its pretensions. Those whom the bank appears to have made its debtors for the special occasion, were warned of the ruin which awaited them, should the President be sustained, and attempts were made to alarm the whole people by painting the depression in the price of property and produce, and the general loss, inconvenience, and distress, which it was represented would immediately follow the re-election of the President in opposition to the bank.

"Can it now be said that the question of a recharter of the bank was not decided at the election which ensued? Had the veto been equivocal, or had it not covered the whole ground—if it had merely taken exceptions to the details of the bill, or to the time of its passage—if it had not met the whole ground of constitutionality and expediency, then there might have been some plausibility for the allegation that the question was not decided by the people. It was to compel the President to take his stand, that the question was brought forward at that particular time. He met the challenge, willingly took the position into which his adversaries sought to force him, and frankly declared his unalterable opposition to the bank as being both unconstitutional and inexpedient. On that ground the case was argued to the people, and now that the people have sustained the President, notwithstanding the array of influence and power which was brought to bear upon him, it is too late, he confidently thinks, to say that the question has not been decided. Whatever may be the opinions of others, the President considers his re-election as a decision of the people against the bank. In the concluding paragraph of his veto message he said:

"'I have now done my duty to my country. If sustained by my fellow-citizens, I shall be grateful and happy; if not, I shall find in the motives which impel me, ample grounds for contentment and peace.'

"He was sustained by a just people, and he desires to evince his gratitude by carrying into effect their decision, so far as it depends upon him.

"Of all the substitutes for the present bank, which have been suggested, none seems to have united any considerable portion of the public in its favor. Most of them are liable to the same constitutional objections for which the present bank has been condemned, and perhaps to all there are strong objections on the score of expediency. In ridding the country of an irresponsible power which has attempted to control the government, care must be taken not to unite the same power with the executive branch. To give a President the control over the currency and the power over individuals now possessed by the Bank of the United States, even with the material difference that he is responsible to the people, would be as objectionable and as dangerous as to leave it as it is. Neither the one nor the other is necessary, and therefore ought not to be resorted to.

"But in the conduct of the bank may be found other reasons, very imperative in their character, and which require prompt action. Developments have been made from time to time of its faithlessness as a public agent, its misapplication of public funds, its interference in elections, its efforts, by the machinery of committees, to deprive the government directors of a full knowledge of its concerns, and above all, its flagrant misconduct as recently and unexpectedly disclosed, in placing all the funds of the bank, including the money of the government, at the disposition of the president of the bank, as means of operating upon public opinion and procuring a new charter without requiring him to render a voucher for their disbursement. A brief recapitulation of the facts which justify these charges and which have come to the knowledge of the public and the President, will, he thinks, remove every reasonable doubt as to the course which it is now the duty of the President to pursue.

"We have seen that in sixteen months, ending in May, 1832, the bank had extended its loans more than $28,000,000, although it knew the government intended to appropriate most of its

large deposit during that year in payment of the public debt. It was in May, 1832, that its loans arrived at the maximum, and in the preceding March, so sensible was the bank that it would not be able to pay over the public deposit when it would be required by the government, that it commenced a secret negotiation without the approbation or knowledge of the government, with the agents, for about $2,700,000 of the three per cent. stocks held in Holland, with a view of inducing them not to come forward for payment for one or more years after notice should be given by the Treasury Department. This arrangement would have enabled the bank to keep and use during that time the public money set apart for the payment of these stocks.

"Although the charter and the rules of the bank, both, declare that 'not less than seven directors' shall be necessary to the transaction of business, yet, the most important business, even that of granting discounts to any extent, is intrusted to a committee of five members who do not report to the board.

"To cut off all means of communication with the government, in relation to its most important acts, at the commencement of the present year, not one of the government directors was placed on any one committee. And although since, by an unusual remodelling of those bodies, some of those directors have been placed on some of the committees, they are yet entirely excluded from the committee of exchange, through which the greatest and most objectionable loans have been made.

"When the government directors made an effort to bring back the business of the bank to the board, in obedience to the charter and the existing regulations, the board not only overruled their attempt, but altered the rule so as to make it conform to the practice, in direct violation of one of the most important provisions of the charter which gave them existence.

"It has long been known that the president of the bank, by his single will, originates and executes many of the most important measures connected with the management and credit of the bank, and that the committee, as well as the board of directors, are left in entire ignorance of many acts done, and correspondence carried on, in their names, and apparently under their authority. The fact has been recently disclosed, that an unlimited discretion has been, and is now, vested in the president of the bank to expend its funds in payment for preparing and circulating articles, and purchasing pamphlets and newspapers, calculated by their contents to operate on elections and secure a renewal of its charter.

"With these facts before him, in an official report from the government directors, the President would feel that he was not only responsible for all the abuses and corruptions the bank has committed, or may commit, but almost an accomplice in a conspiracy against that government which he has sworn honestly to administer, if he did not take every step, within his constitutional and legal power, likely to be efficient in putting an end to these enormities. If it be possible, within the scope of human affairs, to find a reason for removing the government deposits, and leaving the bank to its own resource for the means of effecting its criminal designs, we have it here. Was it expected, when the moneys of the United States were directed to be placed in that bank, that they would be put under the control of one man, empowered to spend millions without rendering a voucher or specifying the object? Can they be considered safe, with the evidence before us that tens of thousands have been spent for highly improper, if not corrupt, purposes, and that the same motive may lead to the expenditure of hundreds of thousands and even millions more? And can we justify ourselves to the people by longer lending to it the money and power of the government, to be employed for such purposes?

"In conclusion, the President must be permitted to remark that he looks upon the pending question as of higher consideration than the mere transfer of a sum of money from one bank to another. Its decision may affect the character of our government for ages to come. Should the bank be suffered longer to use the public moneys, in the accomplishment of its purposes, with the proof of its faithlessness and corruption before our eyes, the patriotic among our citizens will despair of success in struggling against its power; and we shall be responsible for entailing it upon our country for ever. Viewing it as a question of transcendent importance, both in the principles and consequences it involves, the President could not, in justice to the responsibility which he owes to the country, refrain from pressing upon the Secretary of the Treasury his view of the considerations which impel to immediate action. Upon him has been devolved, by the constitution and the suffrages of the American people, the duty of superintending the operation of the Executive departments of the governments, and seeing that the laws are faithfully executed. In the performance of this high trust, it is his undoubted right to express to those whom the laws and his own choice have made his associates in the administration of the government, his opinion of their duties, under circumstances, as they arise. It is this right which he now exercises. Far be it from him to expect or require that any member of the cabinet should, at his request, order, or dictation, do any act which he believes unlawful, or in his conscience condemns. From them, and from his fellow-citizens in general, he desires only that aid and support which their reason approves and their conscience sanctions.

"The President again repeats that he begs his cabinet to consider the proposed measure as his own, in the support of which he shall require no one of them to make a sacrifice of opinion or principle. Its responsibility has been assumed, after the most mature deliberation and reflection, as necessary to preserve the morals of the

people, the freedom of the press, and the purity of the elective franchise, without which, all will unite in saying that the blood and treasure expended by our forefathers, in the establishment of our happy system of government, will have been vain and fruitless. Under these convictions, he feels that a measure so important to the American people cannot be commenced too soon; and he, therefore, names the first day of October next as a period proper for the change of the deposits, or sooner, provided the necessary arrangements with the State banks can be made."

I was in the State of Virginia, when the *Globe* newspaper arrived, towards the end of September, bringing this "paper," which the President had read to his cabinet, and the further information that he had carried his announced design into effect. I felt an emotion of the moral sublime at beholding such an instance of civic heroism. Here was a President, not bred up in the political profession, taking a great step upon his own responsibility from which many of his advisers shrunk; and magnanimously, in the act itself, releasing all from the peril that he encountered, and boldly taking the whole upon himself. I say peril; for if the bank should conquer, there was an end to the political prospects of every public man concurring in the removal. He believed the act to be necessary; and believing that, he did the act—leaving the consequences to God and the country. I felt that a great blow had been struck, and that a great contest must come on, which could only be crowned with success by acting up to the spirit with which it had commenced. And I repaired to Washington at the approach of the session with a full determination to stand by the President, which I believed to be standing by the country; and to do my part in justifying his conduct, and in exposing and resisting the powerful combination which it was certain would be formed against him.

CHAPTER XCIII.

BANK PROCEEDINGS, ON SEEING THE DECISION OF THE PRESIDENT, IN RELATION TO THE REMOVAL OF THE DEPOSITS.

Immediately on the publication in the *Globe* of the "Paper read to the Cabinet," the bank took it into consideration in all the forms of a co-ordinate body. It summoned a meeting of the directors—appointed a committee—referred the President's "Paper" to it—ordered it to report—held another meeting to receive the report—adopted it (the government directors, Gilpin, Wager, and Sullivan voting against it)—and ordered five thousand copies of the report to be printed. A few extracts from the report, entitled a Memorial to Congress, are here given, for the purpose of showing, *First*, The temper and style in which this moneyed corporation, deriving its existence from the national Congress, indulged itself, and that in its corporate capacity, in speaking of the President of the United States and his cabinet; and, *next*, to show the lead which it gave to the proceedings which were to be had in Congress. Under the first head, the following passages are given:

"The committee to whom was referred on the 24th of September, a paper signed 'Andrew Jackson,' purporting to have been read to a cabinet on the 18th, and also another paper signed 'H. D. Gilpin, John T. Sullivan, Peter Wager, and Hugh McEldery,' bearing date August 19th, 1833—with instructions to consider the same, and report to the board 'whether any, and what steps may be deemed necessary on the part of the board in consequence of the publication of said letter and report,' beg leave to state—

"To justify this measure is the purpose of the paper signed 'Andrew Jackson.' Of the paper itself, and of the individual who has signed it, the committee find it difficult to speak with the plainness by which alone such a document, from such a source, should be described, without wounding their own self-respect, and violating the consideration which all American citizens must feel for the chief magistracy of their country. Subduing, however, their feelings and their language down to that respectful tone which is due to the office, they will proceed to examine the history of this measure, its character and the pretexts offered in palliation of it.

"1st. It would appear from its contents and from other sources of information, that the President had a meeting of what is called the cabinet, on Wednesday, the 18th September, and there read this paper. Finding that it made no impression on the majority of persons assembled, the subject was postponed, and in the mean time this document was put into the newspapers. It was obviously published for two reasons. The first was to influence the members of the cabinet by bringing to bear upon their immediate decision the first public impression excited by misrepresentations, which the objects of them could not refute in time—the second was, by the same excitement, to affect the approaching elections in Pennsylvania, Maryland and New Jersey. Its

assailants are what are called politicians (i. e., the assailants of the bank)."

Such is the temper and style in which the President of the United States is spoken of by this great moneyed corporation, in a memorial addressed to Congress. Erecting itself into a co-ordinate body, and assuming in its corporate capacity an authority over the President's act, it does not even condescend to call him President. It is "Andrew Jackson," and the name always placed between inverted commas to mark the higher degree of contempt. Then the corporation shrinks from remarking on the "paper" itself, and the "individual" who signed it, as a thing injurious to their own self-respect, and only to be done in consideration of the "office" which he fills, and that after "subduing" their feelings—and this was the insolence of the moneyed power in defeat, when its champion had received but forty-nine votes for the Presidency out of two hundred and eighty-eight given in! What would it have been in victory? The lead which it gave to the intended proceedings in Congress, is well indicated in these two paragraphs, and the specifications under them:

"The indelicacy of the form of those proceedings corresponds well with the substance of them, which is equally in violation of the rights of the bank and the laws of the country.

"The committee willingly leave to the Congress of the United States, the assertion of their own constitutional power, and the vindication of the principles of our government, against the most violent assault they have ever yet encountered; and will now confine themselves to the more limited purpose of showing that the reasons assigned for this measure are as unfounded as the object itself is illegal."

The illegality of the proceeding, and the vindication of the constitution, and the principles of the government, from a most violent assault, are the main objects left by the bank to the Congress; the invalidity of the reasons assigned for the removal, are more limited, and lest the Congress might not discover these violations of law and constitution, the corporation proceeds to enumerate and establish them. It says:

"Certainly since the foundation of this government, nothing has ever been done which more deeply wounds the spirit of our free institutions. It, in fact, resolves itself into this—that whenever the laws prescribe certain duties to an officer, if that officer, acting under the sanctions of his official oath and his private character, refuses to violate that law, the President of the United States may dismiss him and appoint another; and if he too should prove to be a 'refractory subordinate,' to continue his removals until he at last discovers in the descending scale of degradation some irresponsible individual fit to be the tool of his designs. Unhappily, there are never wanting men who will think as their superiors wish them to think—men who regard more the compensation than the duties of their office—men to whom daily bread is sufficient consolation for daily shame.

"The present state of this question is a fearful illustration of the danger of it. At this moment the whole revenue of this country is at the disposal—the absolute, uncontrolled disposal—of the President of the United States. The laws declare that the public funds shall be placed in the Bank of the United States, unless the Secretary of the Treasury forbids it. The Secretary of the Treasury will not forbid it. The President dismisses him, and appoints somebody who will. So the laws declare that no money shall be drawn from the Treasury, except on warrants for appropriations made by law. If the Treasurer refuses to draw his warrant for any disbursement, the President may dismiss him and appoint some more flexible agent, who will not hesitate to gratify his patron. The text is in the official gazette, announcing the fate of the dismissed Secretary to all who follow him. 'The agent cannot conscientiously perform the service, and refuses to co-operate, and desires to remain to thwart the President's measures. To put an end to this difficulty between the head and the hands of the executive department, the constitution arms the chief magistrate with authority to remove the refractory subordinate.' The theory thus avowed, and the recent practice under it, convert the whole free institutions of this country into the mere absolute will of a single individual. They break down all the restraints which the framers of the government hoped they had imposed on arbitrary power, and place the whole revenue of the United States in the hands of the President.

"For it is manifest that this removal of the deposits is not made by the order of the Secretary of the Treasury. It is a perversion of language so to describe it. On the contrary, the reverse is openly avowed. The Secretary of the Treasury refused to remove them, believing, as his published letter declares, that the removal was 'unnecessary, unwise, vindictive, arbitrary and unjust.' He was then dismissed because he would not remove them, and another was appointed because he would remove them. Now this is a palpable violation of the charter. The bank and Congress agree upon certain terms, which no one can change but a particular officer; who, although necessarily nominated to the Senate by the President, was designated by the bank and by Congress as the umpire between them. Both Congress and the bank have a right to the free and honest and impartial judgment of that officer,

whoever he may be—the bank, because the removal may injure its interests—the Congress, because the removal may greatly incommode and distress their constituents. In this case, they are deprived of it by the unlawful interference of the President, who 'assumes the responsibility,' which, being interpreted, means, usurps the power of the Secretary.

"The whole structure of the Treasury shows that the design of Congress was to make the Secretary as independent as possible of the President. The other Secretaries are merely executive officers; but the Secretary of the Treasury, the guardian of the public revenue, comes into more immediate sympathy with the representatives of the people who pay that revenue; and although, according to the general scheme of appointment, he is nominated by the President to the Senate, yet he is in fact the officer of Congress, not the officer of the President.

"This independence of the Secretary of the Treasury—if it be true in general—is more especially true in regard to the bank. It was in fact the leading principle in organizing the bank, that the President should be excluded from all control of it. The question which most divided the House of Representives was, whether there should be any government directors at all; and although this was finally adopted, yet its tendency to create executive influence over the bank was qualified by two restrictions: first, that no more than three directors should be appointed from any one State; and, second, that the president of the bank should not be, as was originally designed by the Secretary of the Treasury, chosen from among the government directors. Accordingly, by the charter, the Secretary of the Treasury is every thing—the President comparatively nothing. The Secretary has the exclusive supervision of all the relations of the bank with the government."

These extracts are sufficient to show that the corporation charged the President with illegal and unconstitutional conduct, subversive of the principles of our government, and dangerous to our liberties in causing the deposits to be removed—that they looked upon this illegal, unconstitutional, and dangerous conduct as the principal wrong—and left to Congress the assertion of its own constitutional power, and the vindication of the principles of the government from the assault which they had received. And this in a memorial addressed to Congress, of which five thousand copies, in pamphlet form, were printed, and the members of Congress liberally supplied with copies. It will be seen, when we come to the proceedings of Congress, how far the intimations of the memorial in showing what ought to be done, and leaving Congress to do it, was complied with by that body.

CHAPTER XCIV.

REPORT OF THE SECRETARY OF THE TREASURY TO CONGRESS ON THE REMOVAL OF THE DEPOSITS.

By the clause in the charter authorizing the Secretary of the Treasury to remove the deposits, that officer was required to communicate the fact immediately to Congress, if in session, if not, at the first meeting; together with his reasons for so doing. The act which had been done was not a "removal," in the sense of that word; for not a dollar was taken from the Bank of the United States to be deposited elsewhere; and the order given was not for a "removal," but for a cessation of deposits in that institution, leaving the public moneys which were in it to be drawn out in the regular course of expenditure. An immediate and total removal might have been well justified by the misconduct of the bank; a cessation to deposit might have been equally well justified on the ground of the approaching expiration of the charter, and the propriety of providing in time for the new places of deposit which that expiration would render necessary. The two reasons put together made a clear case, both of justification and of propriety, for the order which had been given; and the secretary, Mr. Taney, well set them forth in the report which he made, and which was laid before Congress on the day after its meeting. The following are extracts from it:

"The Treasury department being intrusted with the administration of the finances of the country, it was always the duty of the Secretary, in the absence of any legislative provision on the subject, to take care that the public money was deposited in safe keeping, in the hands of faithful agents, and in convenient places, ready to be applied according to the wants of the government. The law incorporating the bank has reserved to him, in its full extent, the power he before possessed. It does not confer on him a new power, but reserves to him his former authority, without any new limitation. The obligation to assign the reasons for his direction to deposit the money of the United States elsewhere, cannot be considered as a restriction of

the power, because the right of the Secretary to designate the place of deposit was always necessarily subject to the control of Congress. And as the Secretary of the Treasury presides over one of the executive departments of the government, and his power over this subject forms a part of the executive duties of his office, the manner in which it is exercised must be subject to the supervision of the officer to whom the constitution has confided the whole executive power, and has required to take care that the laws be faithfully executed.

"The faith of the United States is, however, pledged, according to the terms of the section above stated, that the public money shall be deposited in this bank, unless 'the Secretary of the Treasury shall otherwise order and direct.' And as this agreement has been entered into by Congress, in behalf of the United States, the place of deposit could not be changed by a legislative act, without disregarding a pledge, which the legislature has given; and the money of the United States must therefore continue to be deposited in the bank, until the last hour of its existence, unless it shall be otherwise ordered by the authority mentioned in the charter. The power over the place of deposit for the public money would seem properly to belong to the legislative department of the government, and it is difficult to imagine why the authority to withdraw it from this bank was confided exclusively to the Executive. But the terms of the charter appear to be too plain to admit of question; and although Congress should be satisfied that the public money was not safe in the care of the bank, or should be convinced that the interests of the people of the United States imperiously demanded the removal, yet the passage of a law directing it to be done, would be a breach of the agreement into which they have entered.

"In deciding upon the course which it was my duty to pursue in relation to the deposits, I did not feel myself justified in anticipating the renewal of the charter on either of the above-mentioned grounds. It is very evident that the bank has no claim to renewal, founded on the justice of Congress. For, independently of the many serious and insurmountable objections, which its own conduct has furnished, it cannot be supposed that the grant to this corporation of exclusive privileges, at the expense of the rest of the community, for twenty years, can give it a right to demand the still further enjoyment of its profitable monopoly. Neither could I act upon the assumption that the public interest required the recharter of the bank, because I am firmly persuaded that the law which created this corporation, in many of its provisions, is not warranted by the constitution, and that the existence of such a powerful moneyed monopoly, is dangerous to the liberties of the people, and to the purity of our political institutions.

"The manifestations of public opinion, instead of being favorable to a renewal, have been decidedly to the contrary. And I have always regarded the result of the last election of the President of the United States, as the declaration of a majority of the people that the charter ought not to be renewed. It is not necessary to state here, what is now a matter of history. The question of the renewal of the charter was introduced into the election by the corporation itself. Its voluntary application to Congress for the renewal of its charter four years before it expired, and upon the eve of the election of President, was understood on all sides as bringing forward that question for incidental decision, at the then approaching election. It was accordingly argued on both sides, before the tribunal of the people, and their verdict pronounced against the bank, by the election of the candidate who was known to have been always inflexibly opposed to it.

"The monthly statement of the bank, of the 2d September last, before referred to, shows that the notes of the bank and its branches, then in circulation, amounted to $18,413,287 07, and that its discounts amounted to the sum of $62,653,359 59. The immense circulation above stated, pervading every part of the United States, and most commonly used in the business of commerce between distant places, must all be withdrawn from circulation when the charter expires. If any of the notes then remain in the hands of individuals, remote from the branches at which they are payable, their immediate depreciation will subject the holders to certain loss. Those payable in the principal commercial cities would, perhaps, retain nearly their nominal value; but this would not be the case with the notes of the interior branches, remote from the great marts of trade. And the statements of the bank will show that a great part of its circulation is composed of notes of this description. The bank would seem to have taken pains to introduce into common use such a description of paper as it could depreciate, or raise to its par value, as best suited its own views; and it is of the first importance to the interests of the public that these notes should all be taken out of circulation, before they depreciate in the hands of the individuals who hold them; and they ought to be withdrawn gradually, and their places supplied, as they retire, by the currency which will become the substitute for them. How long will it require, for the ordinary operations of commerce, and the reduction of discounts by the bank, to withdraw the amount of circulation before mentioned, without giving a shock to the currency, or producing a distressing pressure on the community? I am convinced that the time which remained for the charter to run, after the 1st of October (the day on which the first order for removal took effect), was not more than was proper to accomplish the object with safety to the community.

"There is, however, another view of the subject, which in my opinion, made it impossible further to postpone the removal. About the 1st of December, 1832, it had been ascertained that the present Chief Magistrate was re-elected,

that his decision against the bank had thus been sanctioned by the people. At that time the discounts of the bank amounted to $61,571,625 66. Although the issue which the bank took so much pains to frame had now been tried, and the decision pronounced against it, yet no steps were taken to prepare for its approaching end. On the contrary, it proceeded to enlarge its discounts, and, on the 2d of August, 1833, they amounted to $64,160,349 14, being an increase of more than two and a half millions in the eight months immediately following the decision against them. And so far from preparing to arrange its affairs with a view to wind up its business, it seemed from this course of conduct, to be the design of the bank to put itself in such an attitude, that, at the close of its charter, the country would be compelled to submit to its renewal, or to bear all the consequences of a currency suddenly deranged, and also a severe pressure for the immense outstanding claims which would then be due to the corporation. While the bank was thus proceeding to enlarge its discounts, an agent was appointed by the Secretary of the Treasury to inquire upon what terms the State banks would undertake to perform the services to the government which have heretofore been rendered by the Bank of the United States; and also to ascertain their condition in four of the principal commercial cities, for the purpose of enabling the department to judge whether they would be safe and convenient depositories for the public money. It was deemed necessary that suitable fiscal agents should be prepared in due season, and it was proper that time should be allowed them to make arrangements with one another throughout the country, in order that they might perform their duties in concert, and in a manner that would be convenient and acceptable to the public. It was essential that a change so important in its character, and so extensive in its operation upon the financial concerns of the country, should not be introduced without timely preparation.

"The United States, by the charter, reserved the right of appointing five directors of the bank. It was intended by this means not only to provide guardians for the interests of the public in the general administration of its affairs, but also to have faithful officers, whose situation would enable them to become intimately acquainted with all the transactions of the institution, and whose duty it would be to apprize the proper authorities of any misconduct on the part of the corporation likely to affect the public interest. The fourth fundamental article of the constitution of the corporation declares that not less than seven directors shall constitute a board for the transaction of business. At these meetings of the board, the directors on the part of the United States had of course a right to be present; and, consequently, if the business of the corporation had been transacted in the manner which the law requires, there was abundant security that nothing could be done, injuriously affecting the interests of the people, without being immediately communicated to the public servants, who were authorized to apply the remedy. And if the corporation has so arranged its concerns as to conceal from the public directors some of its most important operations, and has thereby destroyed the safeguards which were designed to secure the interests of the United States, it would seem to be very clear that it has forfeited its claim to confidence, and is no longer worthy of trust.

"Instead of a board constituted of at least seven directors, according to the charter, at which those appointed by the United States have a right to be present, many of the most important money transactions of the bank have been, and still are, placed under the control of a committee, denominated the exchange committee, of which no one of the public directors has been allowed to be a member since the commencement of the present year. This committee is not even elected by the board, and the public directors have no voice in their appointment. They are chosen by the president of the bank, and the business of the institution, which ought to be decided on by the board of directors, is, in many instances, transacted by this committee; and no one had a right to be present at their proceedings but the president, and those whom he shall please to name as members of this committee. Thus, loans are made, unknown at the time to a majority of the board, and paper discounted which might probably be rejected at a regular meeting of the directors. The most important operations of the bank are sometimes resolved on and executed by this committee; and its measures are, it appears, designedly, and by regular system, so arranged, as to conceal from the officers of the government transactions in which the public interests are deeply involved. And this fact alone furnishes evidence too strong to be resisted, that the concealment of certain important operations of the corporation from the officers of the government is one of the objects which is intended to be accomplished by means of this committee. The plain words of the charter are violated, in order to deprive the people of the United States of one of the principal securities which the law had provided to guard their interests, and to render more safe the public money intrusted to the care of the bank. Would any individual of ordinary discretion continue his money in the hands of an agent who violated his instructions for the purpose of hiding from him the manner in which he was conducting the business confided to his charge? Would he continue his property in his hands, when he had not only ascertained that concealment had been practised towards him, but when the agent avowed his determination to continue in the same course, and to withhold from him, as far as he could, all knowledge of the manner in which he was employing his funds? If an individual would not be expected to continue his confidence under

such circumstances, upon what principle could a different line of conduct be required from the officers of the United States, charged with the care of the public interests? The public money is surely entitled to the same care and protection as that of an individual; and if the latter would be bound, in justice to himself, to withdraw his money from the hands of an agent thus regardless of his duty, the same principle requires that the money of the United States should, under the like circumstances, be withdrawn from the hands of their fiscal agent.

Having shown ample reasons for ceasing to make the public deposits in the Bank of the United States, and that it was done, the Secretary proceeds to the next division of his subject, naturally resulting from his authority to remove, though not expressed in the charter; and that was, to show where he had ordered them to be placed.

"The propriety of removing the deposits being thus evident, and it being consequently my duty to select the places to which they were to be removed, it became necessary that arrangements should be immediately made with the new depositories of the public money, which would not only render it safe, but would at the same time secure to the government, and to the community at large, the conveniencies and facilities that were intended to be obtained by incorporating the Bank of the United States. Measures were accordingly taken for that purpose, and copies of the contracts which have been made with the selected banks, and of the letters of instructions to them from this department, are herewith submitted. The contracts with the banks in the interior are not precisely the same with those in the Atlantic cities. The difference between them arises from the nature of the business transacted by the banks in these different places. The State banks selected are all institutions of high character and undoubted strength, and are under the management and control of persons of unquestioned probity and intelligence. And, in order to insure the safety of the public money, each of them is required, and has agreed, to give security whenever the amount of the deposit shall exceed the half of the amount of the capital actually paid in; and this department has reserved to itself the right to demand security whenever it may think it advisable, although the amount on deposit may not be equal to the sum above stated. The banks selected have also severally engaged to transmit money to any point at which it may be required by the direction of this department for the public service, and to perform all the services to the government which were heretofore rendered by the Bank of the United States. And, by agreements among themselves to honor each other's notes and drafts, they are providing a general currency at least as sound as that of the Bank of the United States, and will afford facilities to commerce and in the business of domestic exchange, quite equal to any which the community heretofore enjoyed. There has not been yet sufficient time to perfect these arrangements, but enough has already been done to show that, even on the score of expediency, a Bank of the United States is not necessary, either for the fiscal operations of the government, or the public convenience; and that every object which the charter to the present bank was designed to attain, may be as effectually accomplished by the State banks. And, if this can be done, nothing that is useful will be lost or endangered by the change, while much that is desirable will be gained by it. For no one of these corporations will possess that absolute and almost unlimited dominion over the property of the citizens of the United States which the present bank holds, and which enables it at any moment, at its own pleasure, to bring distress upon any portion of the community whenever it may deem it useful to its interest to make its power felt. The influence of each of the State banks is necessarily limited to its own immediate neighborhood, and they will be kept in check by the other local banks. They will not, therefore, be tempted by the consciousness of power to aspire to political influence, nor likely to interfere in the elections of the public servants. They will, moreover, be managed by persons who reside in the midst of the people who are to be immediately affected by their measures; and they cannot be insensible or indifferent to the opinions and peculiar interests of those by whom they are daily surrounded, and with whom they are constantly associated. These circumstances always furnish strong safeguards against an oppressive exercise of power, and forcibly recommend the employment of State banks in preference to a Bank of the United States, with its numerous and distant branches.

"In the selection, therefore, of the State banks as the fiscal agents of the government, no disadvantages appear to have been incurred on the score of safety or convenience, or the general interests of the country, while much that is valuable will be gained by the change. I am, however, well aware of the vast power of the Bank of the United States, and of its ability to bring distress and suffering on the country. This is one of the evils of chartering a bank with such an amount of capital, with the right of shooting its branches into every part of the Union, so as to extend its influence to every neighborhood. The immense loan of more than twenty-eight millions of dollars suddenly poured out, chiefly in the Western States, in 1831, and the first four months in 1832, sufficiently attests that the bank is sensible of the power which its money gives it, and has placed itself in an attitude to make the people of the United States feel the weight of its resentment, if they presume to disappoint the wishes of the corporation. By a severe curtailment it has already made it proper to withdraw a portion of the money it held

on deposit, and transfer it to the custody of the new fiscal agents, in order to shield the community from the injustice of the Bank of the United States. But I have not supposed that the course of the government ought to be regulated by the fear of the power of the bank. If such a motive could be allowed to influence the legislation of Congress, or the action of the executive departments of the government, there is an end to the sovereignty of the people; and the liberties of the country are at once surrendered at the feet of a moneyed corporation. They may now demand the possession of the public money, or the renewal of the charter; and if these objects are yielded to them from apprehensions of their power, or from the suffering which rapid curtailments on their part are inflicting on the community, what may they not next require? Will submission render such a corporation more forbearing in its course? What law may it not hereafter demand, that it will not, if it pleases, be able to enforce by the same means?"

Thus the keeping of the public moneys went to the local banks, the system of an independent treasury being not then established; and the notes of these banks necessarily required their notes to be temporarily used in the federal payments, the gold currency not being at that time revived. Upon these local banks the federal government was thrown—*first*, for the safe keeping of its public moneys; *secondly*, to supply the place of the nineteen millions of bank notes which the national had in circulation; *thirdly*, to relieve the community from the pressure which the Bank of the United States had already commenced upon it, and which, it was known, was to be pushed to the ultimate point of oppression. But a difficulty was experienced in obtaining these local banks, which would be incredible without understanding the cause. Instead of a competition among them to obtain the deposits, there was holding off, and an absolute refusal on the part of many. Local banks were shy of receiving them—shy of receiving the greatest possible apparent benefit to themselves—shy of receiving the aliment upon which they lived and grew! and why this so great apparent contradiction? It was the fear of the Bank of the United States! and of that capacity to destroy them to which Mr. Biddle had testified in his answers to the Senate's Finance Committee; and which capacity was now known to be joined to the will; for the bank placed in the same category all who should be concerned in the removal—both the government that ordered it, and the local banks which received what it lost. But a competent number were found; and this first attempt to prevent a removal, by preventing a reception of the deposits elsewhere, entirely failed.

CHAPTER XCV.

NOMINATION OF GOVERNMENT DIRECTORS, AND THEIR REJECTION.

By the charter of the bank, the government was entitled to five directors, to be nominated annually by the President, and confirmed by the Senate. At the commencement of the session of 1833–'34, the President nominated the five, four of them being the same who had served during the current year, and who had made the report on which the order for the removal of the deposits was chiefly founded. This drew upon them the resentment of the bank, and caused them to receive a large share of reproach and condemnation in the report which the committee of the bank drew up, and which the board of directors adopted and published. When these nominations came into the Senate it was soon perceived that there was to be opposition to these four; and for the purpose of testing the truth of the objections, Mr. Kane, of Illinois, submitted the following resolution:

"*Resolved*, That the nominations of H. D. Gilpin, John T. Sullivan, Peter Wager, and Hugh McEldery, be recommitted to the Committe on Finance, with instructions to inquire into their several qualifications and fitness for the stations to which they have been nominated; also into the truth of all charges preferred by them against the board of directors of the Bank of the United States, and into the conduct of each of the said nominees during the time he may have acted as director of the said bank; and that the said nominees have notice of the times and places of meetings of said committee, and have leave to attend the same."

Which was immediately rejected by the following vote:

"YEAS.—Messrs. Benton, Brown, Forsyth, Grundy, Hendricks, Hill, Kane, King of Alabama, Linn, McKean, Moor, Morris, Rives, Robinson, Shepley, Tallmadge, Tipton, White, Wilkins, Wright.—20.

"NAYS.—Messrs. Bell, Bibb, Black, Calhoun, Chambers, Clay, Clayton, Ewing, Frelinghuysen,

Kent, King of Georgia, Knight, Mangum, Naudain, Poindexter, Porter, Prentiss, Robbins, Silsbee, Smith, Southard, Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster.—27.

And this resolution being rejected, requiring a two-fold examination—one into the character and qualifications of the nominees, the other into the truth of their representations against the bank, it was deemed proper to submit another, limited to an inquiry into the character and fitness of the nominees; which was rejected by the same vote. The nominations were then voted upon separately, and each of the four was rejected by the same vote which applied to the first one, to wit, Mr. Gilpin: and which was as follows:

"YEAS.—Messrs. Benton, Black, Brown, Forsyth, Grundy, Hendricks, Hill, Kane, King of Alabama, Linn, McKean, Moore, Morris, Robinson, Shepley, Tallmadge, Tipton, White, Wilkins, Wright.—20.

"NAYS.—Messrs. Bell, Bibb, Calhoun, Chambers, Clay. Ewing, Frelinghuysen, Kent, Knight, Mangum, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster.—24.

These rejections being communicated to the President, he immediately felt that it presented a new case for his energy and decision of conduct. The whole of the rejected gentlemen had been confirmed the year before—had all acted as directors for the current year—and there was no complaint against them except from the Bank of the United States; and that limited to their conduct in giving information of transactions in the bank to President Jackson at his written request. Their characters and fitness were above question. That was admitted by the Senate, both by its previous confirmation for the same places, and its present refusal to inquire into those points. The information which they had given to the President had been copied from the books of the bank, and the transactions which they communicated had been objected to by them at the time as illegal and improper; and its truth, unimpeachable in itself, was unimpeached by the Senate in their refusal to inquire into their conduct while directors. It was evident then that they had been rejected for the report which they made to the President; and this brought up the question, whether it was right to punish them for that act? and whether the bank should have the virtual nomination of the government directors by causing those to be rejected which the government nominated? and permitting none to serve but those whose conduct should be subordinate to the views and policy of the bank? These were questions, first, for the Senate, and then for the country; and the President determined to bring it before both in a formal message of re-nomination. He accordingly sent back the names of the four rejected nominations in a message which contained, among others, these passages:

"I disclaim all pretension of right on the part of the President officially to inquire into, or call in question, the reasons of the Senate for rejecting any nomination whatsoever. As the President is not responsible to them for the reasons which induce him to make a nomination, so they are not responsible to him for the reasons which induce them to reject it. In these respects, each is independent of the other and both responsible to their respective constituents. Nevertheless, the attitude in which certain vital interests of the country are placed by the rejection of the gentlemen now re-nominated require of me, frankly, to communicate my views of the consequences which must necessarily follow this act of the Senate, if it be not reconsidered.

"The characters and standing of these gentlemen are well known to the community, and eminently qualify them for the offices to which I propose to appoint them. Their confirmation by the Senate at its last session to the same offices is proof that such was the opinion of them entertained by the Senate at that time; and unless some thing has occurred since to change it, this act may now be referred to as evidence that their talents and pursuits justified their selection.

"The refusal, however, to confirm their nominations to the same offices, shows that there is something in the conduct of these gentlemen during the last year which, in the opinion of the Senate, disqualifies them; and as no charge has been made against them as men or citizens, nothing which impeaches the fair private character they possessed when the Senate gave them their sanction at its last session, and as it moreover appears from the journal of the Senate recently transmitted for my inspection, that it was deemed unnecessary to inquire into their qualifications or character, it is to be inferred that the change in the opinion of the Senate has arisen from the official conduct of these gentlemen. The only circumstances in their official conduct which have been deemed of sufficient importance to attract public attention are the two reports made by them to the executive department of the government, the one bearing date the 22d day of April, and the other the 19th day of August last; both of which reports were communicated to the Senate by the Secretary of the Treasury with his reasons for removing the deposits.

"The truth of the facts stated in these reports, is not, I presume, questioned by any one. The high character and standing of the citizens by whom they were made prevent any doubt upon the subject. Indeed the statements have not been denied by the president of the bank, and the other directors. On the contrary, they have insisted that they were authorized to use the money of the bank in the manner stated in the two reports, and have not denied that the charges there made against the corporation are substantially true.

"It must be taken, therefore, as admitted that the statements of the public directors, in the reports above mentioned, are correct: and they disclose the most alarming abuses on the part of the corporation, and the most strenuous exertions on their part to put an end to them. They prove that enormous sums were secretly lavished in a manner, and for purposes that cannot be justified; and that the whole of the immense capital of the bank has been virtually placed at the disposal of a single individual, to be used, if he thinks proper, to corrupt the press, and to control the proceedings of the government by exercising an undue influence over elections.

"The reports were made in obedience to my official directions; and I herewith transmit copies of my letter calling for information of the proceedings of the bank. Were they bound to disregard the call? Was it their duty to remain silent while abuses of the most injurious and dangerous character were daily practised? Were they bound to conceal from the constituted authorities a course of measures destructive to the best interests of the country, and intended, gradually and secretly, to subvert the foundations of our government, and to transfer its powers from the hands of the people to a great moneyed corporation? Was it their duty to sit in silence at the board, and witness all these abuses without an attempt to correct them; or, in case of failure there, not to appeal to higher authority? The eighth fundamental rule authorizes any one of the directors, whether elected or appointed, who may have been absent when an excess of debt was created, or who may have dissented from the act, to exonerate himself from personal responsibility by giving notice of the fact to the President of the United States; thus recognizing the propriety of communicating to that officer the proceedings of the board in such cases. But, independently of any argument to be derived from the principle recognized in the rule referred to, I cannot doubt for a moment that it is the right and the duty of every director at the board to attempt to correct all illegal proceedings, and in case of failure, to disclose them; and that every one of them, whether elected by the stockholders or appointed by the government, who had knowledge of the facts, and concealed them, would be justly amenable to the severest censure.

"But, in the case of the public directors, it was their peculiar and official duty to make the disclosures; and the call upon them for information could not have been disregarded without a flagrant breach of their trust. The directors appointed by the United States cannot be regarded in the light of the ordinary directors of a bank appointed by the stockholders, and charged with the care of their pecuniary interests in the corporation. They have higher and more important duties. They are public officers. They are placed at the board not merely to represent the stock held by the United States, but to observe the conduct of the corporation, and to watch over the public interests. It was foreseen that this great moneyed monopoly might be so managed as to endanger the interests of the country; and it was therefore deemed necessary, as a measure of precaution, to place at the board watchful sentinels, who should observe its conduct, and stand ready to report to the proper officers of the goverment every act of the board which might affect injuriously the interests of the people.

"It was, perhaps, scarcely necessary to present to the Senate these views of the powers of the Executive, and of the duties of the five directors appointed by the United States. But the bank is believed to be now striving to obtain for itself the government of the country, and is seeking, by new and strained constructions, to wrest from the hands of the constituted authorities the salutary control reserved by the charter. And as misrepresentation is one of its most usual weapons of attack, I have deemed it my duty to put before the Senate, in a manner not to be misunderstood, the principles on which I have acted.

"Entertaining, as I do, a solemn conviction of the truth of these principles, I must adhere to them, and act upon them, with constancy and firmness.

"Aware, as I now am, of the dangerous machinations of the bank, it is more than ever my duty to be vigilant in guarding the rights of the people from the impending danger. And I should feel that I ought to forfeit the confidence with which my countrymen have honored me, if I did not require regular and full reports of every thing in the proceedings of the bank calculated to affect injuriously the public interests, from the public directors, and if the directors should fail to give the information called for, it would be my imperious duty to exercise the power conferred on me by the law of removing them from office, and of appointing others who would discharge their duties with more fidelity to the public. I can never suffer any one to hold office under me, who would connive at corruption, or who should fail to give the alarm when he saw the enemies of liberty endeavoring to sap the foundations of our free institutions, and to subject the free people of the United States to the dominion of a great moneyed corporation.

"Any directors of the bank, therefore, who

might be appointed by the government, would be required to report to the Executive as fully as the late directors have done, and more frequently, because the danger is more imminent; and it would be my duty to require of them a full detail of every part of the proceedings of the corporation, or any of its officers, in order that I might be enabled to decide whether I should exercise the power of ordering a *scire facias*, which is reserved to the President by the charter, or adopt such other lawful measures as the interests of the country might require. It is too obvious to be doubted, that the misconduct of the corporation would never have been brought to light by the aid of a public proceeding at the board of directors.

"The board, when called on by the government directors, refused to institute an inquiry or require an account, and the mode adopted by the latter was the only one by which the object could be attained. It would be absurd to admit the right of the government directors to give information, and at the same time deny the means of obtaining it. It would be but another mode of enabling the bank to conceal its proceedings, and practice with impunity its corruptions. In the mode of obtaining the information, therefore, and in their efforts to put an end to the abuses disclosed, as well as in reporting them, the conduct of the late directors was judicious and praiseworthy, and the honesty, firmness, and intelligence, which they have displayed, entitle them, in my opinion, to the gratitude of the country.

"If the views of the Senate be such as I have supposed, the difficulty of sending to the Senate any other names than those of the late directors will be at once apparent. I cannot consent to place before the Senate the name of any one who is not prepared, with firmness and honesty, to discharge the duties of a public director in the manner they were fulfilled by those whom the Senate have refused to confirm. If, for performing a duty lawfully required of them by the Executive, they are to be punished by the subsequent rejection of the Senate, it would not only be useless but cruel to place men of character and honor in that situation, if even such men could be found to accept it. If they failed to give the required information, or to take proper measures to obtain it, they would be removed by the Executive. If they gave the information, and took proper measures to obtain it, they would, upon the next nomination, be rejected by the Senate. It would be unjust in me to place any other citizens in the predicament in which this unlooked for decision of the Senate has placed the estimable and honorable men who were directors during the last year.

"If I am not in error in relation to the principles upon which these gentlemen have been rejected, the necessary consequence will be that the bank will hereafter be without government directors and the people of the United States must be deprived of their chief means of protection against its abuses; for, whatever conflicting opinions may exist as to the right of the directors appointed in January, 1833, to hold over until new appointments shall be made, it is very obvious that, whilst their rejection by the Senate remains in force, they cannot, with propriety, attempt to exercise such a power. In the present state of things, therefore, the corporation will be enabled effectually to accomplish the object it has been so long endeavoring to attain. Its exchange committees, and its delegated powers to its president, may hereafter be dispensed with, without incurring the danger of exposing its proceedings to the public view. The sentinels which the law had placed at its board can no longer appear there.

"Justice to myself, and to the faithful officers by whom the public has been so well and so honorably served, without compensation or reward, during the last year, has required of me this full and frank exposition of my motives for nominating them again after their rejection by the Senate. I repeat, that I do not question the right of the Senate to confirm or reject at their pleasure; and if there had been any reason to suppose that the rejection, in this case, had not been produced by the causes to which I have attributed it, or of my views of their duties, and the present importance of their rigid performance, were other than they are, I should have cheerfully acquiesced, and attempted to find others who would accept the unenviable trust. But I cannot consent to appoint directors of the bank to be the subservient instruments, or silent spectators, of its abuses and corruptions; nor can I ask honorable men to undertake the thankless duty, with the certain prospect of being rebuked by the Senate for its faithful performance, in pursuance of the lawful directions of the Executive."

This message brought up the question, virtually, Which was the nominating power, in the case of the government directors of the bank? was it the President and Senate? or the bank and the Senate? for it was evident that the four now nominated were rejected to gratify the bank, and for reasons that would apply to every director that would discharge his duties in the way these four had done—namely, as government directors, representing its stock, guarding its interest, and acting for the government in all cases which concerned the welfare of an institution whose notes were a national currency, whose coffers were the depository of the public moneys, and in which it had a direct interest of seven millions of dollars in its stock. It brought up this question: and if negatived, virtually decided that the nominating power

should be in the bank; and that the government directors should no more give such information to the President as these four had given. And this question it was determined to try, and that definitively, in the persons of these four nominated directors, with the declared determination to nominate no others if they were rejected; and so leave the government without representation in the bank. This message of re-nomination was referred to the Senate's Committee of Finance, of which Mr. Tyler was chairman, and who made a report adverse to the re-nominations, and in favor of again rejecting the nominees. The points made in the report were, *first*, the absolute right of the Senate to reject nominations; *secondly*, their privilege to give no reasons for their rejections (which the President had not asked); and, *thirdly*, against the general impolicy of making re-nominations, while admitting both the right and the practice in extrordinary occasions. Some extracts will show its character: thus:

"The President disclaims, indeed, in terms, all right to inquire into the reasons of the Senate for rejecting any nomination; and yet the message immediately undertakes to infer, from facts and circumstances, what those reasons, which influenced the Senate in this case, must have been; and goes on to argue, much at large, against the validity of such supposed reasons. The committee are of opinion that, if, as the President admits, he cannot inquire into the reasons of the Senate for refusing its assent to nominations, it is still more clear that these reasons cannot, with propriety, be assumed, and made subjects of comment.

"In cases in which nominations are rejected for reasons affecting the character of the persons nominated, the committee think that no inference is to be drawn except what the vote shows; that is to say, that the Senate withholds its advice and consent from the nominations. And the Senate, not being bound to give reasons for its votes in these cases, it is not bound, nor would it be proper for it, as the committee think, to give any answer to remarks founded on the presumption of what such reasons must have been in the present case. They feel themselves, therefore, compelled to forego any response whatever to the message of the President, in this particular, as well by the reasons before assigned, as out of respect to that high officer.

"The President acts upon his own views of public policy, in making nominations to the Senate; and the Senate does no more, when it confirms or rejects such nominations.

"For either of these co-ordinate departments to enter into the consideration of the motives of the other, would not, and could not, fail, in the end, to break up all harmonious intercourse between them. This your committee would deplore as highly injurious to the best interests of the country. The President, doubtless, asks himself, in the case of every nomination for office, whether the person be fit for the office; whether he be actuated by correct views and motives; and whether he be likely to be influenced by those considerations which should alone govern him in the discharge of his duties —is he honest, capable, and faithful? Being satisfied in these particulars, the President submits his name to the Senate, where the same inquiries arise, and its decision should be presumed to be dictated by the same high considerations as those which govern the President in originating the nomination.

"For these reasons, the committee have altogether refrained from entering into any discussion of the legal duties and obligations of directors of the bank, appointed by the President and Senate, which forms the main topic of the message.

"The committee would not feel that it had fully acquitted itself of its obligations, if it did not avail itself of this occasion to call the attention of the Senate to the general subject of renomination.

"The committee do not deny that a right of renomination exists; but they are of opinion that, in very clear and strong cases only should the Senate reverse decisions which it has deliberately formed, and officially communicated to the President.

"The committee perceive, with regret, an intimation in the message that the President may not see fit to send to the Senate the names of any other persons to be directors of the bank, except those whose nominations have been already rejected. While the Senate will exercise its own rights according to its own views of its duty, it will leave to other officers of the government to decide for themselves on the manner they will perform their duties. The committee know no reasons why these offices should not be filled; or why, in this case, no further nomination should be made, after the Senate has exercised its unquestionable right of rejecting particular persons who have been nominated, any more than in other cases. The Senate will be ready at all times to receive and consider any such nominations as the President may present to it.

"The committee recommend that the Senate do not advise and consent to the appointment of the persons thus renominated."

While these proceedings were going on in the Senate, the four rejected gentlemen were paying some attention to their own case; and, in a "memorial" addressed to the Senate and to the House of Representatives, answered the charges against them in the Directors' Report,

and vindicated their own conduct in giving the information which the President requested—reasserted the truth of that information; and gave further details upon the manner in which they had been systematically excluded from a participation in conducting the main business of the bank, and even from a knowledge of what was done. They said:

"Selected by the President and Senate as government directors of the Bank of the United States, we have endeavored, during the present year, faithfully to discharge the duties of that responsible trust. Appointed without solicitation, deriving from the office no emolument, we have been guided in our conduct by no views but a determination to uphold, so far as was in our power, those principles which we believe actuated the people of the United States in establishing a national bank, and in providing by its charter that they should be represented at the board of directors. We have regarded that institution, not merely as a source of profit to individuals, but as an organ of the government, established by the nation for its own benefit. We have regarded ourselves, not as mere agents of those whose funds have been subscribed towards the capital of the bank, but as officers appointed on behalf of the American people. We have endeavored to govern all our conduct as faithful representatives of them. We have been deterred from this by no preconcerted system to deprive us of our rights, by no impeachment of our motives, by no false views of policy, by no course of management which might be supposed to promote the interests of those concerned in the institution, at the danger or sacrifice of the general good. We have left the other directors to govern themselves as they may think best for the interests of those by whom they were chosen. For ourselves, we have been determined, that where any differences have arisen, involving on the one hand that open and correct course which is beneficial to the whole community, and, on the other, what are supposed to be the interests of the bank, our efforts should be steadily directed to uphold the former, our remonstrances against the latter should be resolute and constant; and, when they proved unavailing, our appeal should be made to those who were more immediately intrusted with the protection of the public welfare.

"In pursuing this course we have been met by an organized system of opposition, on the part of the majority. Our efforts have been thwarted, our motives and actions have been misrepresented, our rights have been denied, and the limits of our duties have been gratuitously pointed out to us, by those who have sought to curtail them to meet their own policy, not that which we believe led to the creation of the offices we hold. Asserting that injury has been done to them by the late measure of the Secretary of the Treasury, in removing the public deposits, an elaborate statement has been prepared and widely circulated; and taking that as their basis, it has been resolved by the majority to present a memorial to the Senate and House of Representatives. We have not, and do not interfere in the controversy which exists between the majority of the board and the executive department of the government; but unjustly assailed as we have been in the statement to which we have referred, we respectfully claim the same right of submitting our conduct to the same tribunal, and asking of the assembled representatives of the American people that impartial hearing, and that fair protection, which all their officers and all citizens have a right to demand. We shall endeavor to present the view we have taken of the relation in which we are placed, as well towards the institution in question as towards the government and people of the United States, to prove that from the moment we took our seats among the directors of the bank, we have been the objects of a systematic opposition; our rights trampled upon, our just interference prevented, and our offices rendered utterly useless, for all the purposes required by the charter; and to show that the statements by the majority of the board, in the document to which we refer, convey an account of their proceedings and conduct altogether illusory and incorrect."

The four gentlemen then state their opinions of their rights, and their duties, as government directors—that they were devised as instruments for the attainment of public objects—that they were public directors, not elected by stockholders, but appointed by the President and Senate—that their duties were not merely to represent a moneyed interest and promote the largest dividend for stockholders, but also to guard all the public and political interest of the government in an institution so largely sharing its support and so deeply interested in its safe and honorable management. And in support of this opinion of their duties they quoted the authority of Gen. Hamilton, founder of the first bank of the United States; and that of Mr. Alexander Dallas, founder of the second and present bank; showing that each of them, and at the time of establishing the two banks respectively, considered the government directors as public officers, bound to watch over the operations of the bank, to oppose all malpractices, and to report them to the government whenever they occurred. And they thus quoted the opinions of those two gentlemen:

"In the celebrated report of Alexander Hamilton, in 1790, that eminent statesman and financier, although then impressed with a persuasion that the government of the country might well leave the management of a national bank to 'the keen, steady, and, as it were, magnetic sense of their own interest,' existing among the private stockholders, yet holds the following remarkable and pregnant language: 'If the paper of a bank is permitted to insinuate itself into all the revenues and receipts of a country; if it is even to be tolerated as the substitute for gold and silver, in all the transactions of business; it becomes, in either view, a national concern of the first magnitude. As such, the ordinary rules of prudence require that the government should possess the means of ascertaining, whenever it thinks fit, that so delicate a trust is executed with fidelity and care. A right of this nature is not only desirable, as it respects the government, but it ought to be equally so to all those concerned in the institution, as an additional title to public and private confidence, and as a thing which can only be formidable to practices that imply mismanagement.'

"In the letter addressed by Alexander James Dallas, the author of the existing bank, to the chairman of the committee on a national currency, in 1815, the sentiments of that truly distinguished and patriotic statesman are explicitly conveyed upon this very point. 'Nor can it be doubted,' he remarks, 'that the department of the government which is invested with the power of appointment to all the important offices of the State, is a proper department to exercise the power of appointment in relation to a national trust of incalculable magnitude. The national bank ought not to be regarded simply as a commercial bank. It will not operate on the funds of the stockholders alone, but much more on the funds of the nation. Its conduct, good or bad, will not affect the corporate credit and resources alone, but much more the credit and resources of the government. In fine, it is not an institution created for the purposes of commerce and profit alone, but much more for the purposes of national policy, as an auxiliary in the exercise of some of the highest powers of the government. Under such circumstances, the public interests cannot be too cautiously guarded, and the guards proposed can never be injurious to the commercial interests of the institution. The right to inspect the general accounts of the bank, may be employed to detect the evils of a mal-administration, but an interior agency in the direction of its affairs will best serve to prevent them.' This last sentence, extracted from the able document of Secretary Dallas, developes at a glance what had been the experience of the American government and people, in the period which elapsed between the time of Alexander Hamilton and that immediately preceding the formation of the present bank. Hamilton conceived that 'a right to inspect the general accounts of the bank,' would enable government 'to detect the evils of a mal-administration,' and their detection he thought sufficient. He was mistaken: at least so thought Congress and their constituents, in 1815. Hence the inflexible spirit which prevailed at the organization of a new bank, in establishing 'an interior agency in the direction of its affairs,' by the appointment of public officers, through whom the evils of a mal-administration might be carefully watched and prevented."

The four gentlemen also showed, in their memorial, that when the bill for the charter of the present bank was under consideration in the Senate, a motion was made to strike out the clause authorizing the appointment of the government directors; and that that motion was resisted, and successfully, upon the ground that they were to be the guardians of the public interests, and to secure a just and honorable administration of the affairs of the bank; that they were not mere bank directors, but government officers, bound to watch over the rights and interests of the government, and to secure a safe and honest management of an institution which bore the name of the United States—was created by it—and in which the United States had so much at stake in its stock, in its deposits, in its circulation, and in the safety of the community which put their faith in it. Having vindicated the official quality of their characters, and shown their duty as well as their right to inform the government of all mal-practices, they entered upon an examination of the information actually given, showing the truth of all that was communicated, and declaring it to be susceptible of proof, by the inspection of the books of the institution, and by an examination of its directors and clerks.

"We confidently assert that there is in it no statement or charge that can be invalidated; that every one is substantiated by the books and records of the bank; that no real error has been pointed out in this elaborate attack upon us by the majority. It is by suppressing facts well known to them, by misrepresenting what we say, by drawing unjust and unfair inferences from particular sentences, by selecting insulated phrases, and by exhibiting partial statements; by making unfounded insinuations, and by unworthily impeaching our motives, that they endeavor to controvert that which they are unable to refute. When the expense account shall be truly and fully exhibited to any tribunal, if it shall be found that the charges we have stated do not exist; when the minutes of the

board shall be laid open, if it shall be found the resolutions we have quoted are not recorded; we shall acknowledge that we have been guilty of injustice and of error, but not till then.

"We have thus endeavored to present to the assembled representatives of the American people, a view of the course which, for nearly a year, the majority in a large moneyed institution, established by them for their benefit, have thought proper to pursue towards those who have been placed there, to guard their interests and to watch and control their conduct. We have briefly stated the systematic series of actions by which they have endeavored to deprive them of every right that was conferred on them by the charter, and to assume to themselves a secret, irresponsible, and unlimited power. We have shown that, in endeavoring to vindicate or to save themselves, they have resorted to accusations against us, which they are unable to sustain, and left unanswered charges which, were they not true, it would be easy to repel. We have been urged to this from no desire to enter into the lists with an adversary sustained by all the resources which boundless wealth affords. We have been driven to it by the nature and manner of the attack made upon us, in the document on which the intended memorial to Congress is founded."

But all their representations were in vain. Their nominations were immediately rejected, a second time, and the seal of secrecy preserved inviolate upon the reasons of the rejection. The "proceedings" of the Senate were allowed to be published; that is to say, the acts of the Senate, as a body, such as its motions, votes, reports, &c., but nothing of what was said pending the nominations. A motion was made by Mr. Wright to authorize the publication of the debates, which was voted down; and so differently from what was done in the case of Mr. Van Buren. In that case, the debates on the nomination were published; the reasons for the rejection were shown; and the public were enabled to judge of their validity. In this case no publication of debates was allowed; the report presented by Mr. Tyler gave no hint of the reasons for the rejection; and the act remained where that report put it—on the absolute right to reject, without the exhibition of any reason.

And thus the nomination of the government directors was rejected by the United States Senate, not for the declared, but for the known reason of reporting the misconduct of the bank to the President, and especially as it related to the appointment and the conduct of the exchange committee. A few years afterwards a committee of the stockholders, called the "Committee of Investigation," made a report upon the conduct and condition of the bank, in which this exchange committee is thus spoken of: "The mode in which the committee of exchange transacted their business, shows that there really existed no check whatever upon the officers, and that the funds of the bank were almost entirely at their disposition. That committee met daily, and were attended by the cashier, and at times, by the president. They exercised the power of making the loans and settlements, to full as great an extent as the board itself. They kept no minutes of their proceedings—no book in which the loans made, and business done, were entered; but their decisions and directions were given verbally to the officers, to be by them carried into execution. The established course of business seems to have been, for the first teller to pay on presentation at the counter, all checks, notes, or due bills having indorsed the order, or the initials, of one of the cashiers, and to place these as vouchers in his drawer, for so much cash, where they remained, until just before the regular periodical counting of the cash by the standing committee of the board on the state of the bank. These vouchers were then taken out, and entered as 'bills receivable,' in a small memorandum-book, under the charge of one of the clerks. These bills were not discounted, but bore interest semi-annually, and were secured by a pledge of stock, or some other kind of property. It is evidently impossible under such circumstances, to ascertain or be assured, in regard to any particular loan or settlement, that it was authorized by a majority of the exchange committee. It can be said, however, with entire certainty, that the very large business transacted in this way does not appear upon the face of the discount books—was never submitted to the examination of the members of the board at its regular meetings, nor is any where entered on the minutes as having been reported to that body for their information or approbation."

CHAPTER XCVI.

SECRETARY'S REPORT ON THE REMOVAL OF THE DEPOSITS.

In the first days of the session Mr. Clay called the attention of the Senate to the report of the Secretary of the Treasury, communicating the fact that he had ordered the public deposits to cease to be made in the Bank of the United States, and giving his reasons for that act, and said:

"When Congress, at the time of the passage of the charter of the bank, made it necessary that these reasons should be submitted, they must have had some purpose in their mind. It must have been intended that Congress should look into these reasons, determine as to their validity; and approve or disapprove them, as might be thought proper. The reasons had now been submitted, and it was the duty of Congress to decide whether or not they were sufficient to justify the act. If there was a subject which, more than any other, seemed to require the prompt action of Congress, it certainly was that which had reference to the custody and care of the public treasury. The Senate, therefore, could not, at too early a period, enter on the question—what was the actual condition of the treasury?

"It was not his purpose to go into a discussion, but he had risen to state that it appeared to him to be his duty as a senator, and he hoped that other senators took similar views of their duty, to look into this subject, and to see what was to be done. As the report of the Secretary of the Treasury had declared the reasons which had led to the removal of the public deposits, and as the Senate had to judge whether, on investigation of these reasons, the act was a wise one or not, he considered that it would not be right to refer the subject to any committee, but that the Senate should at once act on it, not taking it up in the form of a report of a committee, but going into an examination of the reasons as they had been submitted."

Mr. Benton saw two objections to proceeding as Mr. Clay proposed—one, as to the form of his proposition—the other, as to the place in which it was made. The report of the Secretary, charging acts of misconduct as a cause of removal, would require an investigation into their truth. The House of Representatives being the grand inquest of the nation, and properly chargeable with all inquiries into abuses, would be the proper place for the consideration of the Secretary's report—though he admitted that the Senate could also make the inquiry if it pleased; but should do it in the proper way, namely, by inquiring into the truth of the allegations against the bank. He said:

"He requested the Senate to bear in mind that the Secretary had announced, among other reasons which he had assigned for the removal of the deposits, that it had been caused by the misconduct of the bank, and he had gone into a variety of specifications, charging the bank with interfering with the liberties of the people in their most vital elements—the liberty of the press, and the purity of elections. The Secretary had also charged the bank with dishonoring its own paper on several occasions, and that it became necessary to compel it to receive paper of its own branches. Here, then, were grave charges of misconduct, and he wished to know whether, in the face of such charges, this Congress was to go at once, without the previous examination of a committee, into action upon the subject?

"He desired to know whether the Senate were now about to proceed to the consideration of this report as it stood, and, without receiving any evidence of the charges, or taking any course to establish their truth, to give back the money to this institution? He thought it would be only becoming in the bank itself to ask for a committee of scrutiny into its conduct, and that the subject ought to be taken up by the House of Representatives, which, on account of its numbers, its character as the popular branch, and the fact that all money bills originated there, was the most proper tribunal for the hearing of this case. He did not mean to deny that the Senate had the power to go into the examination. But to fix a day now for the decision of so important a case, he considered as premature. Were the whole of the charges to be blown out of the paper by the breath of the Senate? Were they to decide on the question, each senator sitting there as witness and juror in the case? He did not wish to stand there in the character of a witness, unless he was to be examined on oath either at the bar of the Senate, or before a committee of that body, where the evidence would be taken down. He wished to know the manner in which the examination was to be conducted; for he regarded this motion as an admission of the truth of every charge which had been made in the report, and as a flight from investigation."

Mr. Clay then submitted two resolutions in relation to the subject, the second of which after debate, was referred to the committee on finance. They were in these words:

"1st. That, by dismissing the late Secretary of the Treasury, because he would not, contrary to his sense of his own duty, remove the money of the United States in deposit with the Bank of the United States and its branches, in conformity with the President's opinion, and by appointing his successor to effect such removal, which has been done, the President has assumed the exercise of a power over the Treasury of the United States, not granted to him by the constitution and laws, and dangerous to the liberties of the people.

"2d. That the reasons assigned by the Secretary of the Treasury for the removal of the money of the United States deposited in the Bank of the United States and its branches, communicated to Congress on the 3d day of December, 1833, are unsatisfactory and insufficient."

The order for the reference to the finance committee was made in the Senate at four o'clock in the afternoon of one day; and the report upon it was made at noon the next day; a very elaborate argumentative paper, the reading of which by its reporter (Mr. Webster) consumed one hour and a quarter of time. It recommended the adoption of the resolution; and 6000 copies of the report were ordered to be printed. Mr. Forsyth, of Georgia, complimented the committee on their activity in getting out a report of such length and labor, in so short a time, and in the time usually given to the refreshment of dinner and sleep. He said:

"Certainly great credit was due to the committee on finance for the zeal, ability, and industry with which the report had been brought out. He thought the reference was made yesterday at four o'clock; and the committee could hardly have had time to agree on and write out so long a report in the short space of time intervening since then. It was possible that the subject might have been discussed and well understood in the committee before, and that the chairman had time to embody the sentiments of the various members of the committee previous to the reference. If such was the case, it reminded him of what had once happened in one of the courts of justice of the State of Georgia. A grave question of constitutional law was presented before that court, was argued for days with great ability, and when the argument was concluded, the judge drew from his coat pocket a written opinion, which he read, and ordered to be recorded as the opinion of the court. It appeared, therefore, that unless the senator from Massachusetts carried the opinion of the committee in his coat pocket, he could not have presented his report with the unexampled dispatch that had been witnessed."

Mr. Webster, evidently nettled at the sarcastic compliment of Mr. Forsyth, replied to him in a way to show his irritated feelings, but without showing how he came to do so much work in so short a time. He said:

"Had the gentleman come to the Senate this morning in his usual good humor, he would have been easily satisfied on that point. He will recollect that the subject now under discussion was deemed, by every body, to be peculiarly fitted for the consideration of the committee on finance; and that, three weeks ago, I had intimated my intention of moving for such a reference. I had, however, delayed the motion, from considerations of courtesy to other gentlemen, on all sides. But the general subject of the removal of the deposits, had been referred to the committee on finance, by reference of that part of the President's message; and various memorials, in relation to it, had also been referred. The subject has undergone an ample discussion in committee. I had been more than once instructed by the committee to move for the reference of the Secretary's letter, but the motion was postponed, from time to time, for the reasons I have before given. Had the gentleman from Georgia been in the Senate yesterday, he would have known that this particular mode of proceeding was adopted, as was then well understood, for the sole purpose of facilitating the business of the Senate, and of giving the committee an opportunity to express an opinion, the result of their consideration. If the gentleman had heard what had passed yesterday, when the reference was made, he would not have expressed surprise."

The fact was the report had been drawn by the counsel for the bank, and differed in no way in substance, and but little in form, from the report which the bank committee had made on the paper, "purporting to have been signed by Andrew Jackson, and read to what was called a cabinet." But the substance of the resolution (No. 2, of Mr. Clay's), gave rise to more serious objections than the marvellous activity of the committee in reporting upon it with the elaboration and rapidity with which they had done. It was an empty and inoperative expression of opinion, that the Secretary's reasons were "unsatisfactory and insufficient;" without any proposition to do any thing in consequence of that dissatisfaction and insufficiency; and, consequently, of no legislative avail, and of no import except to bring the opinion of senators, thus imposingly pronounced, against the act of the Secretary. The resolve was not practical —was not legislative—was not in conformity

to any mode of doing business—and led to no action;—neither to a restoration of the deposits nor to a condemnation of their keeping by the State banks. Certainly the charter, in ordering the Secretary to report, and to report at the first practicable moment, both the fact of a removal, and the reasons for it, was to enable Congress to act—to do something—to legislate upon the subject—to judge the validity of the reasons—and to order a restoration if they were found to be untrue or insufficient; or to condemn the new place of deposit, if it was deemed insecure or improper. All this was too obvious to escape the attention of the democratic members who inveighed against the futility and irrelevance of the resolve, unfit for a legislative body, and only suitable for a town meeting; and answering no purpose as a senatorial resolve but that of political effect against public men. On this point Mr. Forsyth said:

"The subject had then been taken out of the hands of the Senate, and sent to the committee on finance; and for what purpose was it sent thither? Did any one doubt what would be the opinion of the committee on finance? Would such a movement have been made, had it not been intended thereby to give strength to the course of the opposition? He was not in the Senate when the reference was yesterday made, but he had supposed that it was made for the purpose of some report in a legislative form, but it has come back with an argument, and a recommendation of the adoption of the resolution of the senator from Kentucky; and when the resolutions were adopted, would they not still be sent back to that committee for examination? Why had not the committee, who seemed to know so well what would be the opinion of the Senate, imbodied that opinion in a legislative form?"

To the same effect spoke many members, and among others, Mr. Silas Wright, of New-York, who said:

"He took occasion to say, that with regard to the reference made yesterday, he was not so unfortunate as his friend from Georgia, to be absent at the time, and he then, while the motion was pending, expressed his opinion that a reference at four o'clock in the afternoon, to be returned with a report at twelve the next day, would materially change the aspect of the case before the Senate. He was also of opinion, that the natural effect of sending this proposition to the committee on finance would be, to have it returned with a recommendation for some legislative action. In this, however, he had been disappointed, the proposition had been brought back to the Senate in the same form as sent to the committee, with the exception of the very able argument read that morning."

Mr. Webster felt himself called upon to answer these objections, and did so in a way to intimate that the committee were not "green" enough,—that is to say, were too wise—to propose any legislative action on the part of Congress in relation to this removal. He said:

"There is another thing, sir, to which the gentleman has objected. He would have preferred that some legislative recommendation should have accompanied the report—that some law, or joint resolution, should have been recommended. Sir, do we not see what the gentleman probably desires? If not, we must be green politicians. It was not my intention, at this stage of the business, to propose any law, or joint resolution. I do not, at present, know the opinions of the committee on this subject. On this question, at least, to use the gentleman's expression, I do not carry their opinions in my coat pocket. The question, when it arrives, will be a very grave one—one of deep and solemn import—and when the proper time for its discussion arrives, the gentleman from Georgia will have an opportunity to examine it. The first thing is, to ascertain the judgment of the Senate, on the Secretary's reasons for his act."

The meaning of Mr. Webster in this reply—this intimation that the finance committee had got out of the sap, and were no longer "green"—was a declaration that any legislative measure they might have recommended, would have been rejected in the House of Representatives, and so lost its efficacy as a senatorial opinion; and to avoid that rejection, and save the effect of the Senate's opinion, it must be a single and not a joint resolution; and so confined to the Senate alone. The reply of Mr. Webster was certainly candid, but unparliamentary, and at war with all ideas of legislation, thus to refuse to propose a legislative enactment because it would be negatived in the other branch of the national legislature. Finally, the resolution was adopted, and by a vote of 28 to 18; thus:

"YEAS.—Messrs. Bibb, Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Hendricks, Kent, King of Georgia, Knight, Leigh, Mangum, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster.

"NAYS.—Messrs. Benton, Brown, Forsyth, Grundy, Hill, Kane, King of Alabama, Linn,

McKean, Moore, Robinson, Shepley, Tallmadge, Tipton, White, Wilkins, Wright."

The futility of this resolve was made manifest soon after its passage. It was nugatory, and remained naked. It required nothing to be done, and nothing was done under it. It became ridiculous. And eventually, and near the end of the session, Mr. Clay proposed it over again, with another resolve attached, directing the return of the deposits to the Bank of the United States; and making it joint, so as to require the consent of both houses, and thus lead to legislative action. In submitting his resolution in this new form he took occasion to allude to their fate in the other branch of the legislature, where rejection was certain, and to intimate censure upon the President for not conforming to the opinion of the Senate in its resolves; as if the adverse opinion of the House (from its recent election, its superior numbers, and its particular charge of the revenue), was not more than a counterpoise to the opinion of the Senate. In this sense, he stood up, and said:

"Whatever might be the fate of these resolutions at the other end of the capitol, or in another building, that consideration ought to have no influence on the course of this body. The Senate owed it to its own character, and to the country, to proceed in the discharge of its duties, and to leave it to others, whether at the other end of the capitol or in another building, to perform their own obligations to the country, according to their own sense of their duty, and their own convictions of responsibility. To them it ought to be left to determine what was their duty, and to discharge that duty as they might think best. For himself, he should be ashamed to return to his constituents without having made every lawful effort in his power to cause the restoration of the public deposits to the United States Bank. While a chance yet remained of effecting the restoration of the reign of the constitution and the laws, he felt that he should not have discharged this duty if he failed to make every effort to accomplish that desirable object.

"The Senate, after passing the resolution which they had already passed, and waiting two months to see whether the Executive would conform his course to the views expressed by this branch of the legislature; after waiting all this time, and perceiving that the error, as the Senate had declared it to be, was still persevered in, and seeing the wide and rapid sweep of ruin over every section of the country, there was still one measure left which might arrest the evil, and that was in the offering of these resolutions—to present them to this body; and, if they passed here, to send them to the other House; and, should they pass them, to present to the President the plain question, if he will return to the constitutional track; or, in opposition to the expressed will of the legislature, retain the control over the millions of public money which are already deposited in the local banks, and which are still coming in there."

Mr. Benton replied to Mr. Clay, showing the propriety of these resolutions if offered at the commencement of the session—their inutility now, so near its end; and the indelicacy in the Senate, in throwing itself between the bank and the House of Representatives, at a moment when the bank directors were standing out in contempt against the House, refusing to be examined by its committee, and a motion actually depending to punish them for this contempt. For this was then the actual condition of the corporation; and, for the Senate to pass a resolution to restore the deposits in these circumstances, was to take the part of the bank against the House—to justify its contumacy—and to express an opinion in favor of its re-charter; as all admitted that restoration of the deposits was wrong unless a re-charter was granted. Mr. B. said:

"He deemed the present moment to be the most objectionable time that could have been selected for proposing to restore the public deposits to the United States Bank. Such a proposition might have been a proper proceeding at the commencement of the session. A joint resolution, at that time, would have been the proper mode; it could have been followed by action; and, if constitutionally passed, would have compelled the restoration of these deposits. But the course was different. A separate resolution was brought in, and passed the Senate; and there it stopped. It was a nugatory resolution, leading to no action. It was such a one as a State legislature, or a public meeting, might adopt, because they had no power to legislate on the subject. But the Senate had the power of legislation; and, six months ago, when the separate resolution was brought in, the Senate, if it intended to act legislatively on the subject at all, ought to have proceeded by joint resolution, or by bill, at that time. But it thought otherwise. The separate resolution was adopted; after adoption, no instruction was given to a committee to bring in a bill; nothing was done to give legislative effect to the decision of the Senate; and now, at the end of six months, the first attempt is made to move in our legislative capacity, and to pass a joint resolution—equivalent to a statute—to compel the restoration of these deposits. This is the state of the proceeding; and, Mr. B. must be permit

ted to say, and to give his reasons for saying, that the time selected for this first step, in our legislative capacity, in a case so long depending, is most inappropriate and objectionable. Mr. B. would not dwell upon the palpable objections to this proceeding, which must strike every mind. The advanced stage of the session—the propositions to adjourn—the quantity of business on hand—the little probability that the House and the President would concur with the Senate, or that two thirds of the two Houses could be brought to pass the resolution, if the President declined to give it his approbation. These palpable objections must strike every mind and make it appear to be a useless consumption of time for the Senate to pass the resolution.

"Virtually, it included a proposition to re-charter the bank; for the most confidential friends of that institution admitted that it was improper to restore the deposits, unless the bank charter was to be continued. The proposition to restore them, virtually included the proposition to re-charter; and that was a proposition which, after having been openly made on this floor, and leave asked to bring in a bill to that effect, had been abandoned, under the clear conviction that the measure could not pass. Passing from these palpable objections, Mr. B. proceeded to state another reason, of a different kind, and which he held to be imperative of the course which the Senate should now pursue: he alluded to the state of the questions at this moment depending between the Bank of the United States and the House of Representatives, and the nature of which exacted from the Senate the observance of a strict neutrality, and an absolute non-interference between those two bodies. The House of Representatives had ordered an inquiry into the affairs and conduct of the bank. The points of inquiry indicated misconduct of the gravest import, and had been ordered by the largest majority, not less than three or four to one. That inquiry was not yet finished; it was still depending; the committee appointed to conduct it remains organized, and has only reported in part. That report is before the Senate and the public; and shows that the directors of the Bank of the United States have resisted the authority of the House—have made an issue of power between itself and the House—for the trial of which issue a resolution is now depending in the House, and is made the order of the day for Tuesday next.

"Here, then, are two questions depending between the House and the bank; the first, an inquiry into the misconduct of the bank; the second, a proposition to compel the bank to submit to the authority of the House. Was it right for the Senate to interpose between those bodies, while these questions were depending? Was it right to interfere on the part of the bank? Was it right for the Senate to leap into the arena, throw itself between the contending parties, take sides with the bank, and virtually declare to the American people that there was no cause for inquiry into the conduct of the bank, and no ground of censure for resisting the authority of the House? Such would, doubtless, be the effect of the conduct of the Senate, if it should entertain the proposition which is now submitted to it. That proposition is one of honor and confidence to the bank. It proceeds upon the assumption that the bank is right, and the House is wrong, in the questions now depending between them; that the bank has done nothing to merit inquiry, or to deserve censure; and that the public moneys ought to be restored to her keeping, without waiting the end of the investigation which the House has ordered, or the decision of the resolution which affirms that the bank has resisted the authority of the House, and committed a contempt against it. This is the full and fair interpretation—the clear and speaking effect—of the measure now proposed to the Senate. Is it right to treat the House thus? Will the Senate, virtually, intelligibly, and practically, acquit the bank, when the bank will not acquit itself?—will not suffer its innocence to be tested by the recorded voice of its own books, and the living voice of its own directors? These directors have refused to testify; they have refused to be sworn; they have refused to touch the book; because, being directors and corporators, and therefore parties, they cannot be required to give evidence against themselves. And this refusal, the public is gravely told, is made upon the advice of eminent counsel. What counsel? The counsel of the law, or of fear? Certainly, no lawyer—not even a junior apprentice to the law—could give such advice. The right to stand mute, does not extend to the privilege of refusing to be sworn. The right does not attach until after the oath is taken, and is then limited to the specific question, the answer to which might inculpate the witness, and which he may refuse to answer, because he will say, upon his oath, that the answer will criminate himself. But these bank directors refuse to be sworn at all. They refuse to touch the book; and, in that refusal, commit a flagrant contempt against the House of Representatives, and do an act for which any citizen would be sent to jail by any justice of the peace, in America. And is the Senate to justify the directors for this contempt? to get between them and the House? to adopt a resolution beforehand—before the day fixed for the decision of the contempt, which shall throw the weight of the Senate into the scale of the directors against the House, and virtually declare that they are right in refusing to be sworn?"

The resolutions were, nevertheless, adopted, and by the fixed majority of twenty-eight to eighteen, and sent to the House of Representatives for concurrence, where they met the fate which all knew they were to receive. The House did not even take them up for considera-

tion, but continued the course which it had began at the commencement of the session; and which was in exact conformity to the legislative course, and exactly contrary to the course of the Senate. The report of the Secretary of the Treasury, the memorial of the bank, and that of the government directors, were all referred to the Committee of Ways and Means; and by that committee a report was made, by their chairman, Mr. Polk, sustaining the action of the Secretary, and concluding with the four following resolutions:

"1. *Resolved*, That the Bank of the United States ought not to be re-chartered.

"2. *Resolved*, That the public deposits ought not to be restored to the Bank of the United States.

"3. *Resolved*, That the State banks ought to be continued as the places of deposit of the public money, and that it is expedient for Congress to make further provision by law, prescribing the mode of selection, the securities to be taken, and the manner and terms on which they are to be employed.

"4. *Resolved*, That, for the purpose of ascertaining, as far as practicable, the cause of the commercial embarrassment and distress complained of by numerous citizens of the United States, in sundry memorials which have been presented to Congress at the present session, and of inquiring whether the charter of the Bank of the United States has been violated; and, also, what corruptions and abuses have existed in its management; whether it has used its corporate power or money to control the press, to interfere in politics, or influence elections; and whether it has had any agency, through its management or money, in producing the existing pressure; a select committee be appointed to inspect the books and examine into the proceedings of the said bank, who shall report whether the provisions of the charter have been violated or not; and, also, what abuses, corruptions, or malpractices have existed in the management of said bank; and that the said committee be authorized to send for persons and papers, and to summon and examine witnesses, on oath, and to examine into the affairs of the said bank and branches; and they are further authorized to visit the principal bank, or any of its branches, for the purpose of inspecting the books, correspondence, accounts, and other papers connected with its management or business; and that the said committee be required to report the result of such investigation, together with the evidence they may take, at as early a day as practicable."

These resolutions were long and vehemently debated, and eventually, each and every one, adopted by decided, and some by a great majority. The first one, being that upon the question of the recharter, was carried by a majority of more than fifty votes—134 to 82; showing an immense difference to the prejudice of the bank since the veto session of 1832. The names of the voters on this great question, so long debated in every form in the halls of Congress, the chambers of the State legislatures, and in the forum of the people, deserve to be commemorated—and are as follows:

"YEAS.—Messrs. John Adams, William Allen, Anthony, Archer, Beale, Bean, Beardsley, Beaumont, John Bell, John Blair, Bockee, Boon, Bouldin, Brown, Bunch, Bynum, Cambreleng, Campbell, Carmichael, Carr, Casey, Chaney, Chinn, Claiborne, Samuel Clark, Clay, Clayton, Clowney, Coffee, Connor, Cramer, W. R. Davis, Davenport, Day, Dickerson, Dickinson, Dunlap, Felder, Forester, Foster, W. K. Fuller, Fulton, Galbraith, Gholson, Gillet, Gilmer, Gordon, Grayson, Griffin, Jos. Hall, T. H. Hall, Halsey, Hamer, Hannegan, Jos. M. Harper, Harrison, Hathaway, Hawkins, Hawes, Heath, Henderson, Howell, Hubbard, Abel Huntington, Inge, Jarvis, Richard M. Johnson, Noadiah Johnson, Cave Johnson, Seaborn Jones, Benjamin Jones, Kavanagh, Kinnard, Lane, Lansing, Laporte, Lawrence, Lay, Luke Lea, Thomas Lee, Leavitt, Loyall, Lucas, Lyon, Lytle, Abijah Mann, Joel K. Mann, Mardis, John Y. Mason, Moses Mason, McIntire, McKay, McKinley, McLene McVean, Miller, Henry Mitchell, Robert Mitchell, Muhlenberg, Murphy, Osgood, Page Parks, Parker, Patterson, D. J. Pearce, Peyton, Franklin Pierce, Pierson, Pinckney, Plummer, Polk, Rencher, Schenck, Schley, Shinn Smith, Speight, Standifer, Stoddert, Sutherland, William Taylor, Wm. P. Taylor, Francis Thomas, Thomson, Turner, Turrill, Vanderpoel, Wagener, Ward, Wardwell, Wayne, Webster, Whallon.—134.

"NAYS.—Messrs. John Quincy Adams, John J. Allen, Heman Allen, Chilton Allan, Ashley, Banks, Barber, Barnitz, Barringer, Baylies Beaty, James M. Bell, Binney, Briggs, Bull Burges, Cage, Chambers, Chilton, Choate, William Clark, Corwin, Coulter, Crane, Crockett, Darlington, Amos Davis, Deberry, Deming, Denny, Dennis, Dickson, Duncan, Ellsworth, Evans, Edward Everett, Horace Everett, Fillmore, Foot, Philo C. Fuller, Graham, Grennel, Hiland Hall, Hard, Hardin, James Harper, Hazeltine, Jabez W. Huntington, Jackson, William C. Johnson, Lincoln, Martindale, Marshall, McCarty, McComas, McDuffie, McKennan, Mercer, Milligan, Moore, Pope, Potts, Reed, William B. Shepherd, Aug. H. Shepperd, William Slade, Charles Slade, Sloane, Spangler Philemon Thomas, Tompkins, Tweedy, Vance Vinton, Watmough, Edward D. White, Frederick Whittlesey, Elisha Whittlesey, Wilde Williams, Wilson, Young.—82."

The second and third resolutions were carried by good majorities, and the fourth overwhelmingly—175 to 42. Mr. Polk immediately moved the appointment of the committee, and that it consist of seven members. It was appointed accordingly, and consisted of Messrs. Francis Thomas of Maryland, chairman; Everett of Massachusetts; Muhlenberg of Pennsylvania; John Y. Mason of Virginia; Ellsworth of Connecticut; Mann of New-York; and Lytle of Ohio. The proceedings of this committee, and the reception it met with from the bank, will be the subject of a future and separate chapter. Under the third resolution the Committee of Ways and Means soon brought in a bill in conformity to its provisions, which was passed by a majority of 22, that is to say, by 112 votes against 90. And thus all the conduct of the President in relation to the bank, received the full sanction of the popular representation; and presented the singular spectacle of full support in one House, and that one specially charged with the subject, while meeting condemnation in the other.

CHAPTER XCVII.

CALL ON THE PRESIDENT FOR A COPY OF THE "PAPER READ TO THE CABINET."

In the first days of the session Mr. Clay submitted a resolution, calling on the President to inform the Senate whether the "paper," published as alleged by his authority, and purporting to have been read to the cabinet in relation to the removal of the deposits, "be genuine or not;" and if it be "genuine," requesting him to cause a copy of it to be laid before the Senate. Mr. Forsyth considered this an unusual call, and wished to know for what purpose it was made. He presumed no one had any doubt of the authenticity of the published copy. He certainly had not. Mr. Clay justified his call on the ground that the "paper" had been published—had become public—and was a thing of general notoriety. If otherwise, and it had remained a confidential communication to his cabinet, he certainly should not ask for it; but not answering as to the use he proposed to make of it, Mr. Forsyth returned to that point, and said he could imagine that one branch of the legislature under certain circumstances might have a right to call for it; but the Senate was not that branch. If the paper was to be the ground of a criminal charge against the President, and upon which he is to be brought to trial, it should come from the House of Representatives, with the charges on which he was to be tried. Mr. Clay rejoined, that as to the uses which were to be made of this "paper" nothing seemed to run in the head of the Senator from Georgia but an impeachment. This seemed to be the only idea he could connect with the call. But there were many other purposes for which it might be used, and he had never intended to make it the ground of impeachment. It might show who was the real author of the removal of the deposits—whether the President, or the Secretary of the Treasury? and whether this latter might not have been a mere automaton. Mr. Benton said there was no parliamentary use that could be made of it, and no such use had been, or could be specified. Only two uses can be made of a paper that may be rightfully called for—one for legislation; the other for impeachment; and not even in the latter case when self-crimination was intended. No legislative use is intimated for this one; and the criminal use is disavowed, and is obliged to be, as the Senate is the tribunal to try, not the inquest to originate impeachments. But this paper cannot be rightfully called for. It is a communication to a cabinet; and communications to the cabinet are the same whether in writing, or in a speech. It is all parol. Could the copy of a speech made to the cabinet be called for? Could an account of the President's conversation with his cabinet be called for? Certainly not! and there is no difference between the written and the spoken communication—between the set speech and a conversation—between a thing made public, or kept secret. The President may refuse to give the copy; and certainly will consult his rights and his self-respect by so refusing. As for the contents of the paper, he has given them to the country, and courts the judgment of the country upon it. He avows his act—gives his reasons—and leaves it to all to judge. He is not a man of concealments, or of irresponsibility. He gave the paper to the public instantly, and authentically, with his name fully signed to it; and any one can say what they please of it. If

it is wanted for an invective, or philippic, there it is! ready for use, and seeking no shelter for want of authenticity. It is given to the world, and is expected to stand the test of all examination. Mr. Forsyth asked the yeas and nays on Mr. Clay's call; they were ordered; and the resolution passed by 23 to 18. The next day the President replied to it, and to the effect that was generally foreseen. He declared the Executive to be a co-ordinate branch of the government, and denied the right of the Senate to call upon him for any copies of his communications to his cabinet—either written or spoken. Feeling his responsibility to the American people, he said he should be always ready to explain to them his conduct; knowing the constitutional rights of the Senate, he should never withhold from it any information in his power to give, and necessary to the discharge of its duties. This was the end of the call; and such an end was the full proof that it ought not to have been made. No act could be predicated upon it—no action taken on its communication—none upon the refusal, either of censure or coercion. The President stood upon his rights; and the Senate could not, and did not, say that he was wrong. The call was a wrong step, and gave the President an easy and a graceful victory.

CHAPTER XCVIII.

MISTAKES OF PUBLIC MEN:—GREAT COMBINATION AGAINST GENERAL JACKSON:—COMMENCEMENT OF THE PANIC.

In the year 1783, Mr. Fox, the great parliamentary debater, was in the zenith of his power and popularity, and the victorious leader in the House of Commons. He gave offence to the King, and was dismised from the ministry, and immediately formed a coalition with Lord North; and commenced a violent opposition to the acts of the government. Patriotism, love of liberty, hatred of misrule and oppression, were the avowed objects of his attacks; "but every one saw (to adopt the language of history), that the real difficulty was his own exclusion from office; and that his coalition with his old enemy and all these violent assaults, were only to force himself back into power: and this being seen, his efforts became unavailing, and distasteful to the public; and he lost his power and influence with the people, and sunk his friends with him. More than one hundred and sixty of his supporters in the House of Commons, lost their places at the ensuing election, and were sportively called "Fox's Martyrs;" and when they had a procession in London, wearing the tails of foxes in their hats, and some one wondered where so many tails of that animal had come from, Mr. Pitt slyly said a great many foxes had been lately taken: one, upon an average, in every borough. Mr. Fox, young at that time, lived to recover from this prostration; but his mistake was one of those of which history is full, and the lesson of which is in vain read to succeeding generations. Public men continue to attack their adversaries in power, and oppose their measures, while having private griefs of their own to redress, and personal ends of their own to accomplish; and the instinctive sagacity of the people always sees the sinister motive, and condemns the conduct founded upon it.

Mr. Clay, Mr. Calhoun, and Mr. Webster were now all united against General Jackson, with all their friends, and the Bank of the United States. The two former had their private griefs: Mr. Clay in the results of the election, and Mr. Calhoun in the quarrel growing out of the discovery of his conduct in Mr. Monroe's cabinet, and it would have been difficult so to have conducted their opposition, and attack, as to have avoided the imputation of a personal motive. But they so conducted it as to authorize and suggest that imputation. Their movements all took a personal and vindictive, instead of a legislative and remedial, nature. Mr. Taney's reasons for removing the deposits were declared to be "unsatisfactory and insufficient"—being words of reproach, and no remedy; nor was the remedy of restoration proposed until driven into it. The resolution, in relation to Gen. Jackson, was still more objectionable. The Senate had nothing to do with him personally, yet a resolve was proposed against him entirely personal, charging him with violating the laws and the constitution; and proposing no remedy for this imputed violation, nor for the act of which it was the subject. It was purely and simply a personal censure—a personal condemnation that was proposed; and, to aggravate the proposition, it came

from the suggestion of the bank directors' memorial to Congress.

The combination was formidable. The bank itself was a great power, and was able to carry distress into all the business departments of the country; the political array against the President was unprecedented in point of number, and great in point of ability. Besides the three eminent chiefs, there were, in the Senate: Messrs. Bibb of Kentucky; Ezekiel Chambers of Maryland; Clayton of Delaware; Ewing of Ohio; Freelinghuysen of New Jersey; Watkins Leigh of Virginia; Mangum of North Carolina; Poindexter of Mississippi; Alexander Porter of Louisiana; William C. Preston of South Carolina; Southard of New Jersey; Tyler of Virginia. In the House of Representatives, besides the ex-President, Mr. Adams, and the eminent jurist from Pennsylvania, Mr. Horace Binney, there was a long catalogue of able speakers: Messrs. Archer of Virginia; Bell of Tennessee; Burgess of Rhode Island; Rufus Choate of Massachusetts; Corwin of Ohio; Warren R. Davis of South Carolina; John Davis of Massachusetts; Edward Everett of Massachusetts; Millard Fillmore of New-York, afterwards President; Robert P. Letcher of Kentucky; Benjamin Hardin of Kentucky; McDuffie of South Carolina; Peyton of Tennessee; Vance of Ohio; Wilde of Georgia; Wise of Virginia: in all, above thirty able speakers, many of whom spoke many times; besides many others of good ability, but without extensive national reputations. The business of the combination was divided—distress and panic the object—and the parts distributed, and separately cast to produce the effect. The bank was to make the distress—a thing easy for it to do, from its own moneyed power, and its power over other moneyed institutions and money dealers; also to get up distress meetings and memorials, and to lead the public press: the politicians were to make the panic, by the alarms which they created for the safety of the laws, of the constitution, the public liberty, and the public money: and most zealously did each division of the combination perform its part, and for the long period of three full months. The decision of the resolution condemning General Jackson, on which all this machinery of distress and panic was hung, required no part of that time. There was the same majority to vote it the first day as the last; but the time was wanted to get up the alarm and the distress; and the vote, when taken, was not from any exhaustion of the means of terrifying and agonizing the country, but for the purpose of having the sentence of condemnation ready for the Virginia elections—ready for spreading over Virginia at the approach of the April elections. The end proposed to themselves by the combined parties, was, for the bank, a recharter and the restoration of the deposits; for the politicians, an ascent to power upon the overthrow of Jackson.

The friends of General Jackson saw the advantages which were presented to them in the unhallowed combination between the moneyed and a political power—in the personal and vindictive character which they gave to the proceedings—the private griefs of the leading assailants—the unworthy objects to be attained—and the cruel means to be used for their attainment. These friends were also numerous, zealous, able, determined; and animated by the consciousness that they were on the side of their country. They were, in the Senate:—Messrs. Forsyth of Georgia; Grundy of Tennessee; Hill of New Hampshire; Kane of Illinois; King of Alabama; Rives of Virginia; Nathaniel Tallmadge of New York; Hugh L. White of Tennessee; Wilkins of Pennsylvania; Silas Wright of New-York; and the author of this THIRTY YEARS' VIEW. In the House, were:—Messrs. Beardsley of New-York; Cambreleng of New-York; Clay of Alabama; Gillett of New-York; Hubbard of New Hampshire; McKay of North Carolina; Polk of Tennessee; Francis Thomas of Maryland; Vanderpoel of New-York; and Wayne of Georgia.

Mr. Clay opened the debate in a prepared speech, commencing in the style which the rhetoricians call *ex abruptu*—being the style of opening which the occasion required—that of rousing and alarming the passions. It will be found (its essential parts) in the next chapter.

CHAPTER XCIX.

MR. CLAY'S SPEECH AGAINST PRESIDENT JACKSON ON THE REMOVAL OF THE DEPOSITS—EXTRACTS.

"MR. CLAY addressed the Senate as follows: We are, said he, in the midst of a revolution, hitherto bloodless, but rapidly tending towards a total change of the pure republican character of the government, and to the concentration of all power in the hands of one man. The powers of Congress are paralyzed, except when exerted in conformity with his will, by frequent and an extraordinary exercise of the executive veto, not anticipated by the founders of the constitution, and not practised by any of the predecessors of the present Chief Magistrate. And, to cramp them still more, a new expedient is springing into use, of withholding altogether bills which have received the sanction of both Houses of Congress, thereby cutting off all opportunity of passing them, even if, after their return, the members should be unanimous in their favor. The constitutional participation of the Senate in the appointing power is virtually abolished, by the constant use of the power of removal from office without any known cause, and by the appointment of the same individual to the same office, after his rejection by the Senate. How often have we, senators, felt that the check of the Senate, instead of being, as the constitution intended, a salutary control, was an idle ceremony? How often, when acting on the case of the nominated successor, have we felt the injustice of the removal? How often have we said to each other, well, what can we do? the office cannot remain vacant without prejudice to the public interests; and, if we reject the proposed substitute, we cannot restore the displaced, and perhaps some more unworthy man may be nominated.

"The judiciary has not been exempted from the prevailing rage for innovation. Decisions of the tribunals, deliberately pronounced, have been contemptuously disregarded, and the sanctity of numerous treaties openly violated. Our Indian relations, coeval with the existence of the government, and recognized and established by numerous laws and treaties, have been subverted; the rights of the helpless and unfortunate aborigines trampled in the dust, and they brought under subjection to unknown laws, in which they have no voice, promulgated in an unknown language. The most extensive and most valuable public domain that ever fell to the lot of one nation is threatened with a total sacrifice. The general currency of the country, the life-blood of all its business, is in the most imminent danger of universal disorder and confusion. The power of internal improvement lies crushed beneath the veto. The system of protection of American industry was snatched from impending destruction at the last session; but we are now coolly told by the Secretary of the Treasury, without a blush, 'that it is understood to be *conceded on all hands* that a tariff for protection merely is to be finally abandoned.' By the 3d of March, 1837, if the progress of innovation continue, there will be scarcely a vestige remaining of the government and its policy as they existed prior to the 3d of March, 1829. In a term of years, a little more than equal to that which was required to establish our liberties, the government will have been transformed into an elective monarchy—the worst of all forms of government.

"Such is a melancholy but faithful picture of the present condition of our public affairs. It is not sketched or exhibited to excite, here or elsewhere, irritated feeling; I have no such purpose. I would, on the contrary, implore the Senate and the people to discard all passion and prejudice, and to look calmly but resolutely upon the actual state of the constitution and the country. Although I bring into the Senate the same unabated spirit, and the same firm determination, which have ever guided me in the support of civil liberty, and the defence of our constitution, I contemplate the prospect before us with feelings of deep humiliation and profound mortification.

"It is not among the least unfortunate symptoms of the times, that a large proportion of the good and enlightened men of the Union, of all parties, are yielding to sentiments of despondency. There is, unhappily, a feeling of distrust and insecurity pervading the community. Many of our best citizens entertain serious apprehensions that our Union and our institutions are destined to a speedy overthrow. Sir, I trust that the hopes and confidence of the country will revive. There is much occasion for manly independence and patriotic vigor, but none for despair. Thank God, we are yet free; and, if we put on the chains which are forging for us, it will be because we deserve to wear them. We should never despair of the republic. If our ancestors had been capable of surrendering themselves to such ignoble sentiments, our independence and our liberties would never have been achieved. The winter of 1776–'77, was one of the gloomiest periods of our revolution; but on this day, fifty-seven years ago, the father of his country achieved a glorious victory, which diffused joy, and gladness, and animation throughout the States. Let us cherish the hope that, since he has gone from among us, Providence, in the dispensation of his mercies, has near at hand, in reserve for us, though yet unseen by us, some sure and happy deliverance from all impending dangers.

"When we assembled here last year, we were full of dreadful forebodings. On the one hand, we were menaced with a civil war, which, lighting up in a single State, might spread its flames throughout one of the largest sections of the

Union. On the other, a cherished system of policy, essential to the successful prosecution of the industry of our countrymen, was exposed to imminent danger of destruction. Means were happily applied by Congress to avert both calamities, the country was reconciled, and our Union once more became a band of friends and brothers. And I shall be greatly disappointed, if we do not find those who were denounced as being unfriendly to the continuance of our confederacy, among the foremost to fly to its preservation, and to resist all executive encroachments.

"Mr. President, when Congress adjourned at the termination of the last session, there was one remnant of its powers—that over the purse—left untouched. The two most important powers of civil government are those of the sword and purse; the first, with some restrictions, is confided by the constitution to the Executive, and the last to the legislative department. If they are separate, and exercised by different responsible departments, civil liberty is safe; but if they are united in the hands of the same individual, it is gone. That clear-sighted and revolutionary orator and patriot, Patrick Henry, justly said, in the Virginia convention, in reply to one of his opponents, 'Let him candidly tell me where and when did freedom exist, when the sword and purse were given up from the people? Unless a miracle in human affairs interposed, no nation ever retained its liberty after the loss of the sword and the purse. Can you prove, by any argumentative deduction, that it is possible to be safe without one of them? If you give them up, you are gone.'

"Up to the period of the termination of the last session of Congress, the exclusive constitutional power of Congress over the treasury of the United States had never been contested. Among its earliest acts was one to establish the treasury department, which provided for the appointment of a treasurer, who was required to give bond and security, in a very large amount, 'to receive and keep the moneys of the United States, and disburse the same upon warrants drawn by the Secretary of the Treasury, countersigned by the Comptroller, recorded by the Register, and not otherwise.' Prior to the establishment of the present Bank of the United States, no treasury or place had been provided or designated by law for the safe keeping of the public moneys, but the treasurer was left to his own discretion and responsibility. When the existing bank was established, it was provided that the public moneys should be deposited with it, and, consequently, that bank became the treasury of the United States; for, whatever place is designated by law for the keeping of the public money of the United States, under the care of the treasurer of the United States, is, for the time being, the treasury. Its safety was drawn in question by the Chief Magistrate, and an agent was appointed a little more than a year ago to investigate its ability. He reported to the Executive that it was perfectly safe. His apprehensions of its solidity were communicated by the President to Congress, and a committee was appointed to examine the subject; they, also, reported in favor of its security. And, finally, among the last acts of the House of Representatives, prior to the close of the last session, was the adoption of a resolution, manifesting its entire confidence in the ability and solidity of the bank.

"After all these testimonies to the perfect safety of the public moneys in the place appointed by Congress, who could have supposed that the place would have been changed? Who could have imagined that, within sixty days of the meeting of Congress, and, as it were, in utter contempt of its authority, the change should have been ordered? Who would have dreamed that the treasurer should have thrown away the single key to the treasury, over which Congress held ample control, and accepted, in lieu of it, some dozens of keys, over which neither Congress nor he has any adequate control? Yet, sir, all this has been done; and it is now our solemn duty to inquire, 1st. By whose authority it has been ordered; and, 2d. Whether the order has been given in conformity with the constitution and laws of the United States.

"I agree, sir, and I am very happy whenever I can agree with the President, as to the immense importance of these questions. He says, in the paper which I hold in my hand, that he looks upon the pending question as involving higher considerations than the 'mere transfer of a sum of money from one bank to another. Its decision may affect the character of our government for ages to come.' And, with him, I view it as 'of transcendent importance, both in the principles and the consequences it involves.' It is a question of all time, for posterity as well as for us—of constitutional government or monarchy—of liberty or slavery. As I regard it, I hold the bank as nothing, as perfectly insignificant, faithful as it has been in the performance of all its duties. I hold a sound currency as nothing, essential as it is to the prosperity of every branch of business, and to all conditions of society, and efficient as the agency of the bank has been in providing the country with a currency as sound as ever existed, and unsurpassed by any in Christendom. I consider even the public faith, sacred and inviolable as it ever should be, as comparatively nothing. All these questions are merged in the greater and mightier question of the constitutional distribution of the powers of the government, as affected by the recent executive innovation. The real inquiry is, shall all the barriers which have been erected by the caution and wisdom of our ancestors, for the preservation of civil liberty, be prostrated and trodden under foot, and the sword and the purse be at once united in the hands of one man? Shall

the power of Congress over the treasury of the United States, hitherto never contested, be wrested from its possession, and be henceforward wielded by the Chief Magistrate? Entertaining these views of the magnitude of the question before us, I shall not, at least to-day, examine the reasons which the President has assigned for his act. If he has no power to perform it, no reasons, however cogent, can justify the deed. None can sanctify an illegal or unconstitutional act.

"The question is, by virtue of whose will, power, dictation, was the removal of the deposits effected? By whose authority and determination were they transferred from the Bank of the United States, where they were required by the law to be placed, and put in banks which the law had never designated? And I tell gentlemen opposed to me, that I am not to be answered by the exhibition of a formal order bearing the signature of R. B. Taney, or any one else. I want to know, not the amanuensis or clerk who prepared or signed the official form, but the authority or the individual who dictated or commanded it; not the hangman who executes the culprit, but the tribunal which pronounced the sentence. I want to know that power in the government, that original and controlling authority, which required and commanded the removal of the deposits. And, I repeat the question, is there a senator, or intelligent man in the whole country, who entertains a solitary doubt?

"Hear what the President himself says in his manifesto read to his cabinet: 'The President deems it his duty to communicate in this manner to his cabinet the final conclusions of his own mind, and the reasons on which they are founded.' And, at the conclusion of this paper, what does he say? 'The President again repeats that he begs his cabinet to consider the proposed measure as his own, in the support of which he shall require no one of them to make a sacrifice of opinion or principle. Its responsibility has been assumed, after the most mature deliberation and reflection, as necessary to preserve the morals of the people, the freedom of the press, and the purity of the elective franchise, without which all will unite in saying that the blood and treasure expended by our forefathers, in the establishment of our happy system of government, will have been vain and fruitless. Under these convictions, he feels that a measure so important to the American people cannot be commenced too soon; and he therefore names the 1st day of October next as a period proper for the change of the deposits, or sooner, provided the necessary arrangements with the State banks can be made.' Sir, is there a senator here who will now tell me that the removal was not the measure and the act of the President?

"Thus is it evident that the President, neither by the act creating the treasury department, nor by the bank charter, has any power over the public treasury. Has he any by the constitution? None, none. We have already seen that the constitution positively forbids any money from being drawn from the treasury but in virtue of a previous act of appropriation. But the President himself says that 'upon him has been devolved, by the constitution, and the suffrages of the American people, the duty of superintending the operation of the executive departments of the government, and seeing that the laws are faithfully executed.' If there existed any such double source of executive power, it has been seen that the treasury department is not an executive department; but that, in all that concerns the public treasury, the Secretary is the agent or representative of Congress, acting in obedience to their will, and maintaining a direct intercourse with them. By what authority does the President derive power from the mere result of an election? In another part of this same cabinet paper he refers to the suffrages of the people as a source of power independent of a system in which power has been most carefully separated, and distributed between three separate and independent departments. We have been told a thousand times, and all experience assures us, that such a division is indispensable to the existence and preservation of freedom. We have established and designated offices, and appointed officers in each of those departments, to execute the duties respectively allotted to them. The President, it is true, presides over the whole; specific duties are often assigned by particular laws to him alone, or to other officers under his superintendence. His parental eye is presumed to survey the whole extent of the system in all its movements; but has he power to come into Congress, and to say such laws only shall you pass; to go into the courts, and prescribe the decisions which they may pronounce; or even to enter the offices of administration, and, where duties are specifically confided to those officers, to substitute his will to their duty? Or, has he a right, when those functionaries, deliberating upon their own solemn obligations to the people, have moved forward in their assigned spheres, to arrest their lawful progress, because they have dared to act contrary to his pleasure? No, sir; no, sir. His is a high and glorious station, but it is one of observation and superintendence. It is to see that obstructions in the forward movement of government, unlawfully interposed, shall be abated by legitimate and competent means.

"Such are the powers on which the President relies to justify his seizure of the treasury of the United States. I have examined them, one by one, and they all fail, utterly fail, to bear out the act. We are brought irresistibly to the conclusions, 1st, That the invasion of the public treasury has been perpetrated by the removal of one Secretary of the Treasury, who would not violate his conscientious obligations, and by the appointment of another, who stood ready

to subscribe his name to the orders of the President; and, 2dly, That the President has no color of authority in the constitution or laws for the act which he has thus caused to be performed.

"And now let us glance at some of the tremendous consequences which may ensue from this high-handed measure. If the President may, in a case in which the law has assigned a specific duty exclusively to a designated officer, command it to be executed, contrary to his own judgment, under the penalty of an expulsion from office, and, upon his refusal, may appoint some obsequious tool to perform the required act, where is the limit to his authority? Has he not the same right to interfere in every other case, and remove from office all that he can remove, who hesitate or refuse to do his bidding contrary to their own solemn convictions of their duty? There is no resisting this inevitable conclusion. Well, then, how stands the matter of the public treasury? It has been seen that the issue of warrants upon the treasury is guarded by four independent and hitherto responsible checks, each controlling every other, and all bound by the law, but all holding their offices, according to the existing practice of the government, at the pleasure of the President. The Secretary signs, the Comptroller countersigns, the Register records, and the Treasurer pays the warrant. We have seen that the President has gone to the first and highest link in the chain, and coerced a conformity to his will. What is to prevent, whenever he desires to draw money from the public treasury, his applying the same penalty of expulsion, under which Mr. Duane suffered, to every link of the chain, from the Secretary of the Treasury down, and thus to obtain whatever he demands? What is to prevent a more compendious accomplishment of his object, by the agency of transfer drafts, drawn on the sole authority of the Secretary, and placing the money at once wherever, or in whatsoever hands, the President pleases?

"What security have the people against the lawless conduct of any President? Where is the boundary to the tremendous power which he has assumed? Sir, every barrier around the public treasury is broken down and annihilated. From the moment that the President pronounced the words, 'This measure is my own; I take upon myself the responsibility of it,' every safeguard around the treasury was prostrated, and henceforward it might as well be at the Hermitage. The measure adopted by the President is without precedent. I beg pardon—there is one; but we must go down for it to the commencement of the Christian era. It will be recollected by those who are conversant with Roman history, that, after Pompey was compelled to retire to Brundusium, Cæsar, who had been anxious to give him battle, returned to Rome, 'having reduced Italy,' says the venerable biographer, in sixty days—[the exact period between the day of the removal of the deposits and that of the commencement of the present session of Congress, without the usual allowance of any days of grace]—in sixty days, without bloodshed.' The biographer proceeds:

"'Finding the city in a more settled condition than he expected, and many senators there, he addressed them in a mild and gracious manner [as the President addressed his late Secretary of the Treasury], and desired them to send deputies to Pompey with an offer of honorable terms of peace,' &c. As Metellus, the tribune, opposed his taking money out of the public treasury, and cited some laws against it—[such, Sir, I suppose, as I have endeavored to cite on this occasion]—Cæsar said 'Arms and laws do not flourish together. If you are not pleased at what I am about, you have only to withdraw. [Leave the office, Mr. Duane!] War, indeed, will not tolerate much liberty of speech. When I say this, I am renouncing my own right; for you, and all those whom I have found exciting a spirit of faction against me, are at my disposal.' Having said this, he approached the doors of the treasury, and, as the keys were not produced, he sent for workmen to break them open. Metellus again opposed him, and gained credit with some for his firmness; but Cæsar, with an elevated voice, threatened to put him to death if he gave him any further trouble. 'And you know very well, young man,' said he, 'that this is harder for me to say than to do.' Metellus, terrified by the menace, retired; and Cæsar was afterwards easily and readily supplied with every thing necessary for that war.

"Mr. President (said Mr. C.) the people of the United States are indebted to the President for the boldness of this movement; and as one, among the humblest of them, I profess my obligations to him. He has told the Senate, in his message refusing an official copy of his cabinet paper, that it has been published for the information of the people. As a part of the people, the Senate, if not in their official character, have a right to its use. In that extraordinary paper he has proclaimed that the measure is *his* own and that *he* has *taken* upon himself the responsibility of it. In plain English, he has proclaimed an open, palpable and daring usurpation!

"For more than fifteen years, Mr. President, I have been struggling to avoid the present state of things. I thought I perceived, in some proceedings, during the conduct of the Seminole war, a spirit of defiance to the constitution and to all law. With what sincerity and truth—with what earnestness and devotion to civil liberty, I have struggled, the Searcher of all human hearts best knows. With what fortune, the bleeding constitution of my country now fatally attests.

"I have, nevertheless, persevered; and, under every discouragement, during the short time that I expect to remain in the public councils, I will persevere. And if a bountiful Providence would allow an unworthy sinner to approach the throne of grace, I would beseech Him, as

the greatest favor He could grant to me here below, to spare me until I live to behold the people, rising in their majesty, with a peaceful and constitutional exercise of their power, to expel the Goths from Rome; to rescue the public treasury from pillage, to preserve the constitution of the United States; to uphold the Union against the danger of the concentration and consolidation of *all* power in the hands of the Executive; and to sustain the liberties of the people of this country against the imminent perils to which they now stand exposed.

"And now, Mr. President, what, under all these circumstances, is it our duty to do? Is there a senator who can hesitate to affirm, in the language of the resolutions, that the President has assumed a dangerous power over the treasury of the United States, not granted to him by the constitution and the laws; and that the reasons assigned for the act by the Secretary of the Treasury are insufficient and unsatisfactory?

"The eyes and the hopes of the American people are anxiously turned to Congress. They feel that they have been deceived and insulted; their confidence abused; their interests betrayed; and their liberties in danger. They see a rapid and alarming concentration of all power in one man's hands. They see that, by the exercise of the positive authority of the Executive, and his negative power exerted over Congress, the will of one man alone prevails, and governs the republic. The question is no longer what laws will Congress pass, but what will the Executive not veto? The President, and not Congress, is addressed for legislative action. We have seen a corporation, charged with the execution of a great national work, dismiss an experienced, faithful, and zealous president, afterwards testify to his ability by a voluntary resolution, and reward his extraordinary services by a large gratuity, and appoint in his place an executive favorite, totally inexperienced and incompetent, to propitiate the President. We behold the usual incidents of approaching tyranny. The land is filled with spies and informers, and detraction and denunciation are the orders of the day. People, especially official incumbents in this place, no longer dare speak in the fearless tones of manly freemen, but in the cautious whispers of trembling slaves. The premonitory symptoms of despotism are upon us; and if Congress do not apply an instantaneous and effective remedy, the fatal collapse will soon come on, and we shall die—ignobly die—base, mean, and abject slaves; the scorn and contempt of mankind; unpitied, unwept, unmourned!"

CHAPTER C.

MR. BENTON'S SPEECH IN REPLY TO MR. CLAY—EXTRACTS.

MR. CLAY had spoken on three successive days, being the last days of the year 1833. Mr. Benton followed him,—and seeing the advantage which was presented in the character of the resolve, and that of the speech in support of it, all bearing the impress of a criminal proceeding, without other result than to procure a sentence of condemnation against the President for violating the laws and the constitution, endangering the public liberty and establishing a tyranny,—he took up the proceeding in that sense; and immediately turned all the charges against the resolution itself and its mover, as a usurpation of the rights of the House of Representatives in originating an impeachment, and a violation of law and constitution in trying it *ex parte;* and said:

"The first of these resolutions contained impeachable matter, and was in fact, though not in form, a direct impeachment of the President of the United States. He recited the constitutional provision, that the President might be impeached—1st, for treason; 2d, for bribery; 3d, for high crimes; 4th, for misdemeanors; and said that the first resolution charged both a high crime and a misdemeanor upon the President; a high crime, in violating the laws and constitution, to obtain a power over the public treasure, to the danger of the liberties of the people; and a misdemeanor, in dismissing the late Secretary of the Treasury from office. Mr. B. said that the terms of the resolution were sufficiently explicit to define a high crime, within the meaning of the constitution, without having recourse to the arguments and declarations used by the mover in illustration of his meaning; but, if any doubt remained on that head, it would be removed by the whole tenor of the argument, and especially that part of it which compared the President's conduct to that of Cæsar, in seizing the public treasure, to aid him in putting an end to the liberties of his country; and every senator, in voting upon it, would vote as directly upon the guilt or innocence of the President, as if he was responding to the question of guilty or not guilty, in the concluding sentence of a formal impeachment.

"We are, then, said Mr. B., trying an impeachment! But how? The constitution gives to the House of Representatives the sole power to originate impeachments; yet we originate this impeachment ourselves. The constitution gives the accused a right to be present; but he

is not here. It requires the Senate to be sworn as judges; but we are not so sworn. It requires the Chief Justice of the United States to preside when the President is tried; but the Chief Justice is not presiding. It gives the House of Representatives a right to be present, and to manage the prosecution; but neither the House nor its managers are here. It requires the forms of criminal justice to be strictly observed; yet all these forms are neglected and violated. It is a proceeding in which the First Magistrate of the republic is to be tried without being heard, and in which his accusers are to act as his judges!

"Mr. B. called upon the Senate to consider well what they did before they proceeded further in the consideration of this resolution. He called upon them to consider what was due to the House of Representatives, whose privilege was invaded, and who had a right to send a message to the Senate, complaining of the proceeding, and demanding its abandonment. He conjured them to consider what was due to the President, who was thus to be tried in his absence for a most enormous crime; what was due to the Senate itself, in thus combining the incompatible characters of accusers and judges, and which would itself be judged by Europe and America. He dwelt particularly on the figure which the Senate would make in going on with the consideration of this resolution. It accused the President of violating the constitution; and itself committed twenty violations of the same constitution in making the accusation! It accused him of violating a single law, and itself violated all the laws of criminal justice in prosecuting him for it. It charged him with designs dangerous to the liberties of the citizens, and immediately trampled upon the rights of all citizens, in the person of their Chief Magistrate.

"Mr. B. descanted upon the extraordinary organization of the Senate, and drew an argument from it in favor of the reserve and decorum of their proceedings. The Senate were lawgivers, and ought to respect the laws already made; they were the constitutional advisers of the President, and should observe, as nearly as possible, the civil relations which the office of adviser presumes; they might be his judges, and should be the last in the world to stir up an accusation against him, to prejudge his guilt, or to attack his character with defamatory language. Decorum, the becoming ornament of every functionary, should be the distinguishing trait of an American senator, who combines, in his own office, the united dignities of the executive, the legislative, and the judicial character. In his judicial capacity especially, he should sacrifice to decorum and propriety; and shun, as he would the contagious touch of sin and pestilence, the slightest approach to the character of prosecutor. He referred to British parliamentary law to show that the Lords could not join in an accusation, because they were to try it; but here the Senate was sole accuser, and had nothing from the House of Representatives to join; but made the accusation out and out, and tried it themselves. He said the accusation was a double one—for a high crime and a misdemeanor—and the latter a more flagrant proceeding than the former; for it assumed to know for what cause the President had dismissed his late Secretary, and undertook to try the President for a thing which was not triable or impeachable.

"From the foundation of the government, it had been settled that the President's right to dismiss his secretaries resulted from his constitutional obligation to see that the laws were faithfully executed. Many Presidents had dismissed secretaries, and this was the first time that the Senate had ever undertaken to found an impeachment upon it, or had assumed to know the reasons for which it was done.

"Mr. B. said that two other impeachments seemed to be going on, at the same time, against two other officers, the Secretary of the Treasury and the Treasurer; so that the Senate was brimful of criminal business. The Treasurer and the Secretary of the Treasury were both civil officers, and were both liable to impeachment for misdemeanors in office; and great misdemeanors were charged upon them. They were, in fact, upon trial, without the formality of a resolution; and, if hereafter impeached by the House of Representatives, the Senate, if they believed what they heard, would be ready to pronounce judgment and remove them from office, without delay or further examination.

"Mr. B. then addressed himself to the Vice-President (Mr. Van Buren), upon the novelty of the scene which was going on before him, and the great change which had taken place since he had served in the Senate. He commended the peculiar delicacy and decorum of the Vice-President himself, who, in six years' service, in high party times, and in a decided opposition, never uttered a word, either in open or secret session, which could have wounded the feelings of a political adversary, if he had been present and heard it. He extolled the decorum of the opposition to President Adams' administration. If there was one brilliant exception, the error was redeemed by classic wit, and the heroic readiness with which a noble heart bared its bosom to the bullets of those who felt aggrieved. Still addressing himself to the Vice-President, Mr. B. said that if he should receive some hits in the place where he sat, without the right to reply, he must find consolation in the case of his most illustrious predecessor, the great apostle of American liberty (Mr. Jefferson), who often told his friends of the manner in which he had been cut at when presiding over the Senate, and personally annoyed by the inferior—no, young and inconsiderate—members of the federal party.

"Mr. B. returned to the point in debate. The President, he repeated, was on trial for a high crime, in seizing the public treasure in violation

of the laws and the constitution. Was the charge true? Does the act which he has done deserve the definition which has been put upon it? He had made up his own mind that the public deposits ought to be removed from the Bank of the United States. He communicated that opinion to the Secretary of the Treasury; the Secretary refused to remove them; the President removed him, and appointed a Secretary who gave the order which he thought the occasion required. All this he did in virtue of his constitutional obligation to see the laws faithfully executed; and in obedience to the same sense of duty which would lead him to dismiss a Secretary of War, or of the Navy, who would refuse to give an order for troops to march, or a fleet to sail. True, it is made the duty of the Secretary of the Treasury to direct the removal of the deposits; but the constitution makes it the duty of the President to see that the Secretary performs his duty; and the constitution is as much above law as the President is above the Secretary.

"The President is on trial for a misdemeanor —for dismissing his Secretary without sufficient cause. To this accusation there are ready answers: first, that the President may dismiss his Secretaries without cause; secondly, that the Senate has no cognizance of the case; thirdly, that the Senate cannot assume to know for what cause the Secretary in question was dismissed.

"The Secretary of the Treasury is on trial. In order to get at the President, it was found necessary to get at a gentleman who had no voice on this floor. It had been found necessary to assail the Secretary of the Treasury in a manner heretofore unexampled in the history of the Senate. His religion, his politics, his veracity, his understanding, his Missouri restriction vote, had all been arraigned. Mr. B. said he would leave his religion to the constitution of the United States, Catholic as he was, and although 'the Presbyterian might cut off his head the first time he went to mass;' for he could see no other point to the anecdote of Cromwell and the capitulating Catholics, to whom he granted the free exercise of their religion, only he would cut off their heads if they went to mass. His understanding he would leave to himself. The head which could throw the paper which was taken for a stone on this floor, but which was, in fact, a double-headed chain-shot fired from a forty-eight pounder, carrying sails, masts, rigging, all before it, was a head that could take care of itself. His veracity would be adjourned to the trial which was to take place for misquoting a letter of Secretary Crawford, and he had no doubt would end as the charge did for suppressing a letter which was printed *in extenso* among our documents, and withholding the name and compensation of an agent; when that name and the fact of no compensation was lying on the table. The Secretary of the Treasury was arraigned for some incidental vote on the Missouri restriction, when he was a member of the Maryland legislature. Mr. B. did not know what that vote was; but he did know that a certain gentleman, who lately stood in the relation of *sergeant* to another gentleman, in a certain high election, was the leader of the forces which deforced Missouri of her place in the Union for the entire session which he first attended (not served) in the Congress of the United States. His politics could not be severely tried in the time of the alien and sedition law, when he was scarce of age; but were well tried during the late war, when he sided with his country, and received the constant denunciations of that great organ of federalism, the Federal Republican newspaper. For the rest, Mr. B. admitted that the Secretary had voted for the elder Adams to be President of the United States, but denied the right of certain persons to make that an objection to him. Mr. B. dismissed these personal charges, for the present, and would adjourn their consideration until his (Mr. Taney's) trial came on, for which the senator from Kentucky (Mr. Clay), stood pledged; and after the trial was over, he had no doubt but that the Secretary of the Treasury, although a Catholic and a federalist, would be found to maintain his station in the first rank of American gentlemen and American patriots.

"Mr. B. took up the serious charges against the Secretary: that of being the mere instrument of the President in removing the deposits, and violating the constitution and laws of the land. How far he was this mere instrument, making up his mind, in three days, to do what others would not do at all, might be judged by every person who would refer to the opposition papers for the division in the cabinet about the removal of the deposits; and which constantly classed Mr. Taney, then the Attorney General, on the side of removal. This classification was correct, and notorious, and ought to exempt an honorable man, if any thing could exempt him, from the imputation of being a mere instrument in a great transaction of which he was a prime counsellor. The fact is, he had long since, in his character of legal adviser to the President, advised the removal of these deposits; and when suddenly and unexpectedly called upon to take the office which would make it his duty to act upon his own advice, he accepted it from the single sense of honor and duty; and that he might not seem to desert the President in flinching from the performance of what he had recommended. His personal honor was clean; his personal conduct magnanimous; his official deeds would abide the test of law and truth.

"Mr. B. said he would make short work of long accusations, and demolish, in three minutes, what had been concocting for three months, and delivering for three days in the Senate. He would call the attention of the Senate to certain clauses of law, and certain treasury instructions which had been left out of view, but which were decisive of the accusation against the Se-

cretary. The first was the clause in the bank charter, which invested the Secretary with the power of transferring the public funds from place to place. It was the 15th section of the charter: he would read it. It enacted that whenever required by the Secretary of the Treasury, the bank should give the necessary facilities for transferring the public funds from place to place, within the United States, or territories thereof; and for distributing the same in payment of the public creditors, &c.

"Here is authority to the Secretary to transfer the public moneys from place to place, limited only by the bounds of the United States and its territories; and this clause of three lines of law puts to flight all the nonsense about the United States Bank being the treasury, and the Treasurer being the keeper of the public moneys, with which some politicians and newspaper writers have been worrying their brains for the last three months. In virtue of this clause, the Secretary of the Treasury gave certain transfer drafts to the amount of two millions and a quarter; and his legal right to give the draft was just as clear, under this clause of the bank charter, as his right to remove the deposits was under another clause of it. The transfer is made by draft; a payment out of the treasury is made upon a warrant; and the difference between a transfer draft and a treasury warrant was a thing necessary to be known by every man who aspired to the office of illuminating a nation, or of conducting a criminal prosecution, or even of understanding what he is talking about. They have no relation to each other. The warrant takes the money out of the treasury: the draft transfers it from point to point, for the purpose of making payment: and all this attack upon the Secretary of the Treasury is simply upon the blunder of mistaking the draft for the warrant.

"The senator from Kentucky calls upon the people to rise, and drive the Goths from the capitol. Who are those Goths? They are General Jackson and the democratic party,—he just elected President over the senator himself, and the party just been made the majority in the House—all by the vote of the people. It is their act that has put these Goths in possession of the capitol to the discomfiture of the senator and his friends; and he ought to be quite sure that he felt no resentment at an event so disastrous to his hopes, when he has indulged himself with so much license in vituperating those whom the country has put over him.

"The senator from Kentucky says the eyes and the hopes of the country are now turned upon Congress. Yes, Congress is his word, and I hold him to it. And what do they see? They see one House of Congress—the one to which the constitution gives the care of the purse, and the origination of impeachments, and which is fresh from the popular elections: they see that body with a majority of above fifty in favor of the President and the Secretary of the Treasury, and approving the act which the senator condemns. They see that popular approbation in looking at one branch of Congress, and the one charged by the constitution with the inquisition into federal grievances. In the other branch they see a body far removed from the people, neglecting its proper duties, seizing upon those of another branch, converting itself into a grand inquest, and trying offences which itself prefers; and in a spirit which bespeaks a zeal quickened by the sting of personal mortification. He says the country feels itself deceived and betrayed—insulted and wronged—its liberties endangered—and the treasury robbed: the representatives of the people in the other House, say the reverse of all this—that the President has saved the country from the corrupt dominion of a great corrupting bank, by taking away from her the public money which she was using in bribing the press, subsidizing members, purchasing the venal, and installing herself in supreme political power.

"The senator wishes to know what we are to do? What is our duty to do? I answer, to keep ourselves within our constitutional duties—to leave this impeachment to the House of Representatives—leave it to the House to which it belongs, and to those who have no private griefs to avenge—and to judges, each of whom should retire from the bench, if he happened to feel in his heart the spirit of a prosecutor instead of a judge. The Senate now tries General Jackson; it is subject to trial itself—to be tried by the people, and to have its sentence reversed."

The corner-stone of Mr. Clay's whole argument was, that the Bank of the United States was the treasury of the United States. This was his fundamental position, and utterly unfounded, and shown to be so by the fourteenth article of what was called the constitution of the bank. It was the article which provided for the establishment of branches of the mother institution, and all of which except the branch at Washington city, were to be employed, or not employed, as the directors pleased, as depositories of the public money; and consequently were not made so by any law of Congress. The article said:

"The directors of said corporation shall establish a competent office of discount and deposit in the District of Columbia, whenever any law of the United States shall require such an establishment; also one such office of discount and deposit in any State in which two thousand shares shall have been subscribed, or may be held, whenever, upon application of the legislature of such State, Congress may, by law, require the same: Provided, The directors aforesaid shall not be bound to establish such office before the whole of the capital of the bank shall

have been paid up. And it shall be lawful for the directors of the said corporation to establish offices of discount and deposit wheresoever they shall think fit, within the United States or the territories thereof, to such persons, and under such regulations, as they shall deem proper, not being contrary to law, or the constitution of the bank. Or, instead of establishing such offices, it shall be lawful for the directors of the said corporation, from time to time, to employ any other bank or banks, to be first approved by the Secretary of the Treasury, at any place or places that they may deem safe and proper, to manage and transact the business proposed as aforesaid, other than for the purposes of discount, to be managed and transacted by such officers, under such agreements, and subject to such regulations, as they shall deem just and proper.

"Mr. B. went on to remark upon this article, that it placed the establishment of but one branch in the reach or power of Congress, and that one was in the District of Columbia—in a district of ten miles square—leaving the vast extent of twenty-four States, and three Territories, to obtain branches for themselves upon contingencies not dependent upon the will or power of Congress; or requiring her necessities, or even her convenience, to be taken into the account. A law of Congress could obtain a branch in this district; but with respect to every State, the establishment of the branch depended, first, upon the mere will and pleasure of the bank; and, secondly, upon the double contingency of a subscription, and a legislative act, within the State. If then, the mother bank does not think fit, for its own advantage, to establish a branch; or, if the people of a State do not acquire 2,000 shares of the stock of the bank, and the legislature, therefore, demand it, no branch will be established in any State, or any Territory of the Union. Congress can only require a branch, in any State, after two contingencies have happened in the State; neither of them having the slightest reference to the necessities, or even convenience, of the federal government.

"Here, then, said Mr. B., is the Treasury established for the United States! A Treasury which is to have an existence but at the will of the bank, or the will of a State legislature, and a few of its citizens, enough to own 2,000 shares of stock worth $100 a share! A Treasury which Congress has no hand in establishing, and cannot preserve after it is established; for the mother bank, after establishing her branches, may shut them up, or withdraw them. Such a thing has already happened. Branches in the West have been, some shut up, some withdrawn; and, in these cases, the Treasury was broken up, according to the new-fangled conception of a national Treasury. No! said Mr. B., the Federal bank is no more the Treasury of the United States than the State banks are. One is just as much the Treasury as the other; and made so by this very 14th fundamental article of the constitution of the bank. Look at it! Look at the alternative! Where branches are not established, the State banks are to be employed!

"The Bank of the United States is to select the State bank; the Secretary of the Treasury is to approve the selection; and if he does so the State bank so selected, and so approved becomes the keeper of the public moneys; it becomes the depository of the public moneys; it transfers them; it pays them out; it does every thing except make discounts for the mother bank and issue notes; it does everything which the federal government wants done; and that is nothing but what a bank of deposit can do. The government makes no choice between State banks and branch banks. They are all one to her. They stand equal in her eyes; they stand equal in the charter of the bank itself; and the horror that has now broken out against the State banks is a thing of recent conception—a very modern impulsion; which is rebuked and condemned by the very authority to which it traces its source. Mr. B. said, the State banks were just as much made the federal treasury by the bank charter, as the United States Bank itself was: and that was sufficient to annihilate the argument which now sets up the federal bank for the federal treasury. But the fact was, that neither was made the Treasury; and it would be absurd to entertain such an idea for an instant; for the federal bank may surrender her charter, and cease to exist—it can do so at any moment it pleases—the State banks may expire upon their limitation; they may surrender; they may be dissolved in many ways, and so cease to exist; and then there would be no Treasury! What an idea, that the existence of the Treasury of this great republic is to depend, not upon itself, but upon corporations, which may cease to exist, on any day, by their own will, or their own crimes."

The debates on this subject brought out the conclusion that the treasury of the United States had a legal, not a material existence—that the Treasurer having no buildings, and keepers, to hold the public moneys, resorted (when the treasury department was first established), to the collectors of the revenue, leaving the money in their hands until drawn out for the public service—which was never long, as the revenues were then barely adequate to meet the daily expenses of the government; afterwards to the first Bank of the United States—then to local banks; again to the second bank; and now again to local banks. In all these cases the keepers of the public moneys were nothing but keepers, being the mere agents of the Secretary of the treasury in holding the moneys which he had no means of holding himself. From these discussions came the train of ideas which led to

the establishment of the independent treasury —that is to say, to the creation of officers, and the erection of buildings, to hold the public moneys.

CHAPTER CI.

CONDEMNATION OF PRESIDENT JACKSON—MR. CALHOUN'S SPEECH—EXTRACTS.

It was foreseen at the time of the coalition between Mr. Calhoun and Mr. Clay, in which they came together—a conjunction of the two political poles—on the subject of the tariff, and laid it away for a term to include two presidential elections—that the effect would be (even if it was not the design), to bring them together upon all other subjects against General Jackson. This expectation was not disappointed. Early in the debate on Mr. Clay's condemnatory resolution, Mr. Calhoun took the floor in its support; and did Mr. Clay the honor to adopt his leading ideas of a revolution, and of a robbery of the treasury. He not only agreed that we were in the middle of a revolution, but also asserted, by way of consolation to those who loved it, that revolutions never go backwards—an aphorism destined, in this case, to be deceived by the event. In the pleasing anticipation of this aid from Mr. Calhoun and his friends, Mr. Clay had complacently intimated the expectation of this aid in his opening speech; and in that intimation there was no mistake. Mr. Calhoun responded to it thus:

"The Senator from Kentucky [Mr. Clay] anticipates with confidence that the small party, who were denounced at the last session as traitors and disunionists, will be found, on this trying occasion, standing in the front rank, and manfully resisting the advance of despotic power. I (said Mr. C.) heard the anticipation with pleasure, not on account of the compliment which it implied, but the evidence which it affords that the cloud which has been so industriously thrown over the character and motive of that small but patriotic party begins to be dissipated. The Senator hazarded nothing in the prediction. That party is the determined, the fixed, and sworn enemy to usurpation, come from what quarter and under what form it may—whether from the executive upon the other departments of this government, or from this government on the sovereignty and rights of the States. The resolution and fortitude with which it maintained its position at the last session, under so many difficulties and dangers, in defence of the States against the encroachments of the general government, furnished evidence not to be mistaken, that that party, in the present momentous struggle, would be found arrayed in defence of the rights of Congress against the encroachments of the President. And let me tell the Senator from Kentucky (said Mr. C.) that, if the present struggle against executive usurpation be successful, it will be owing to the success with which we, the nullifiers—I am not afraid of the word—maintained the rights of the States against the encroachment of the general government at the last session."

This assurance of aid was no sooner given than complied with. Mr. Calhoun, and all his friends came immediately to the support of the resolution, and even exceeded their author in their zeal against the President and his Secretary. Notwithstanding the private grief which Mr. Calhoun had against General Jackson in the affair of the "correspondence" and the "exposition"—the contents of which latter were well known though not published—and notwithstanding every person was obliged to remember that grief while Mr. Calhoun was assailing the General, and alleging patriotism for the motive, and therefore expected that it should have imposed a reserve upon him; yet, on the contrary he was most personally bitter, and used language which would be incredible, if not found, as it is, in his revised reports of his speeches. Thus, in enforcing Mr. Clay's idea of a robbery of the treasury after the manner of Julius Cæsar, he said:

"The senator from Kentucky, in connection with this part of his argument, read a striking passage from one of the most pleasing and instructive writers in any language [Plutarch], the description of Cæsar forcing himself, sword in hand, into the treasury of the Roman commonwealth. We are at the same stage of our political revolution, and the analogy between the two cases is complete, varied only by the character of the actors and the circumstances of the times. That was a case of an intrepid and bold warrior, as an open plunderer, seizing forcibly the treasury of the country, which, in that republic, as well as ours, was confined to the custody of the legislative department of the government. The actors in our case are of a different character—artful, cunning, and corrupt politicians, and not fearless warriors. They have entered the treasury, not sword in hand, as public plunderers, but, with the false keys of sophistry, as pilferers, under the silence of midnight. The motive and the object are the same, varied

in like manner by circumstances and character. With money I will get men, and with men money,' was the maxim of the Roman plunderer. With money we will get partisans, with partisans votes, and with votes money, is the maxim of our public pilferers. With men and money Cæsar struck down Roman liberty, at the fatal battle of Pharsalia, never to rise again; from which disastrous hour all the powers of the Roman republic were consolidated in the person of Cæsar, and perpetuated in his line. With money and corrupt partisans a great effort is now making to choke and stifle the voice of American liberty, through all its natural organs; by corrupting the press; by overawing the other departments; and, finally, by setting up a new and polluted organ, composed of office-holders and corrupt partisans, under the name of a national convention, which, counterfeiting the voice of the people, will, if not resisted, in their name dictate the succession; when the deed will be done, the revolution be completed, and all the powers of our republic, in like manner, be consolidated in the President, and perpetuated by his dictation."

On the subject of the revolution, "bloodless as yet," in the middle of which we were engaged, and which was not to go backwards, Mr. Calhoun said:

"Viewing the question in its true light, as a struggle on the part of the Executive to seize on the power of Congress, and to unite in the President the power of the sword and the purse, the senator from Kentucky [Mr. Clay] said truly, and, let me add, philosophically, that we are in the midst of a revolution. Yes, the very existence of free governments rests on the proper distribution and organization of power; and, to destroy this distribution, and thereby concentrate power in any one of the departments, is to effect a revolution. But while I agree with the senator that we are in the midst of a revolution, I cannot agree with him as to the time at which it commenced, or the point to which it has progressed. Looking to the distribution of the powers of the general government, into the legislative, executive, and judicial departments, and confining his views to the encroachment of the executive upon the legislative, he dates the commencement of the revolution but sixty days previous to the meeting of the present Congress. I (said Mr. C.) take a wider range, and date it from an earlier period. Besides the distribution among the departments of the general government, there belongs to our system another, and a far more important division or distribution of power—that between the States and the general government, the reserved and delegated rights, the maintenance of which is still more essential to the preservation of our institutions. Taking this wide view of our political system, the revolution, in the midst of which we are, began, not as supposed by the senator from Kentucky, shortly before the commencement of the present session, but many years ago, with the commencement of the restrictive system, and terminated its first stage with the passage of the force bill of the last session, which absorbed all the rights and sovereignty of the States, and consoldated them in this government. Whilst this process was going on, of absorbing the reserved powers of the States, on the part of the general government, another commenced, of concentrating in the executive the powers of the other two—the legislative and judicial departments of the government; which constitutes the second stage of the revolution, in which we have advanced almost to the termination."

Mr. Calhoun brought out in this debate the assertion, in which he persevered afterwards until it produced the quarrel in the Senate between himself and Mr. Clay, that it was entirely owing to the military and nullifying attitude of South Carolina that the "compromise" act was passed, and that Mr. Clay himself would have been prostrated in the attempt to compromise. He thus, boldly put forward that pretension:

"To the interposition of the State of South Carolina we are indebted for the adjustment of the tariff question; without it, all the influence of the senator from Kentucky over the manufacturing interest, great as it deservedly is, would have been wholly incompetent, if he had even thought proper to exert it, to adjust the question. The attempt would have prostrated him, and those who acted with him, and not the system. It was the separate action of the State that gave him the place to stand upon, created the necessity for the adjustment, and disposed the minds of all to compromise."

The necessity of his own position, and the indispensability of Mr. Calhoun's support, restrained Mr. Clay, and kept him quiet under this cutting taunt; but he took ample satisfaction for it some years later, when the triumph of General Jackson in the "expunging resolution," and the decline of their own prospects for the Presidency, dissolved their coalition, and remitted them to their long previous antagonistic feelings. But there was another point in which Mr. Calhoun intelligibly indicated what was fully believed at the time, namely, that the basis of the coalition which ostensibly had for its object the reduction of the tariff, was in reality a political coalition to act against General Jackson, and to the success of which it was essential that their own great bone of contention was to be laid aside, and kept out of the way, while the coalition was in force. It was to enable them to

unite their forces against the "encroachments and corruptions of the Executive" that the tariff was then laid away; and although the removal of the deposits was not then foreseen, as the first occasion for this conjunction, yet there could have been no failure of finding occasions enough for the same purpose when the will was so strong—as subsequent events so fully proved. General Jackson could do but little during the remainder of his Presidency which was not found to be "unconstitutional, illegal, corrupt, usurping, and dangerous to the liberties of the people;" and as such, subject to the combined attack of Mr. Clay and Mr. Calhoun and their respective friends. All this was as good as told, and with an air of self-satisfaction at the foresight of it, in these paragraphs of Mr. Calhoun's speech:

"Now, I put the solemn question to all who hear me: if the tariff had not then been adjusted—if it was now an open question—what hope of successful resistance against the usurpations of the Executive, on the part of this or any other branch of the government, could be entertained? Let it not be said that this is the result of accident—of an unforeseen contingency. It was clearly perceived, and openly stated, that no successful resistance could be made to the corruption and encroachments of the Executive, while the tariff question remained open, while it separated the North from the South, and wasted the energy of the honest and patriotic portions of the community against each other, the joint effort of which is indispensably necessary to expel those from authority who are converting the entire powers of government into a corrupt electioneering machine; and that, without separate State interposition, the adjustment was impossible. The truth of this position rests not upon the accidental state of things, but on a profound principle growing out of the nature of government, and party struggles in a free State. History and reflection teach us, that when great interests come into conflict, and the passions and the prejudices of men are aroused, such struggles can never be composed by the influence of any individuals, however great; and if there be not somewhere in the system some high constitutional power to arrest their progress, and compel the parties to adjust the difference, they go on till the State falls by corruption or violence.

"I will (said Mr. C.) venture to add to these remarks another, in connection with the point under consideration, not less true. We are not only indebted to the cause which I have stated for our present strength in this body against the present usurpation of the Executive, but if the adjustment of the tariff had stood alone, as it ought to have done, without the odious bill which accompanied it—if those who led in the compromise had joined the State-rights party in their resistance to that unconstitutional measure, and thrown the responsibility on its real authors, the administration, their party would have been so prostrated throughout the entire South, and their power, in consequence, so reduced, that they would not have dared to attempt the present measure; or, if they had, they would have been broken and defeated."

Mr. Calhoun took high ground of contempt and scorn against the Secretary's reasons for removing the deposits, so far as founded in the misconduct of the bank directors—declaring that he would not condescend to notice them—repulsing them as intrusive—and shutting his eyes upon these accusations, although heinous in their nature, then fully proved; and since discovered to be far more criminal than then suspected, and such as to subject their authors, a few years afterwards, to indictments in the Court of General Sessions, for the county of Philadelphia, for a "conspiracy to cheat and defraud the stockholders;"—indictments on which they were saved from jury trials by being "*habeas corpus'd*" out of the custody of the sheriff of the county, who had arrested them on bench warrants. Mr. Calhoun thus repulsed all notice of these accusations:

"The Secretary has brought forward many and grievous charges against the bank. I will not condescend to notice them. It is the conduct of the Secretary, and not that of the bank, which is immediately under examination; and he has no right to drag the conduct of the bank into the issue, beyond its operations in regard to the deposits. To that extent I am prepared to examine his allegations against it; but beyond that he has no right—no, not the least—to arraign the conduct of the bank; and I, for one, will not, by noticing his charges beyond that point, sanction his authority to call its conduct in question. But let the point in issue be determined, and I, as far as my voice extends, will give to those who desire it the means of the freest and most unlimited inquiry into its conduct."

But, while supporting Mr. Clay generally in his movement against the President, Mr. Calhoun disagreed with him in the essential averment in his resolve, that his removal of Mr. Duane because he would not, and the appointment of Mr. Taney because he would, remove them was a usurpation of power. Mr. Calhoun held it to be only an "abuse;" and upon that point he procured a modification of his resolve from Mr. Clay, nothwithstanding the earnest-

ness of his speech on the charge of usurpation. And he thus stated his objection:

"But, while I thus severely condemn the conduct of the President in removing the former Secretary and appointing the present, I must say, that in my opinion it is a case of the abuse, and not of the usurpation of power. I cannot doubt that the President has, under the constitution, the right of removal from office; nor can I doubt that the power of removal, wherever it exists, does, from necessity, involve the power of general supervision; nor can I doubt that it might be constitutionally exercised in reference to the deposits. Reverse the present case; suppose the late Secretary, instead of being against, had been in favor of the removal; and that the President, instead of being for, had been against it, deeming the removal not only inexpedient, but, under circumstances illegal; would any man doubt that, under such circumstances, he had a right to remove his Secretary, if it were the only means of preventing the removal of the deposits? Nay, would it not be his indispensable duty to have removed him? and, had he not, would not he have been universally and justly held responsible?"

In all the vituperation of the Secretary, as being the servile instrument of the President's will, the members who indulged in that species of attack were acting against public and recorded testimony. Mr. Taney was complying with his own sense of public duty when he ordered the removal. He had been attorney-general of the United States when the deposit-removal question arose, and in all the stages of that question had been in favor of the removal; so that his conduct was the result of his own judgment and conscience; and the only interference of the President was to place him in a situation where he would carry out his convictions of duty. Mr. Calhoun, in this speech, absolved himself from all connection with the bank, or dependence upon it, or favors from it. Though its chief author, he would have none of its accommodations: and said:

"I am no partisan of the bank; I am connected with it in no way, by moneyed or political ties. I might say, with truth, that the bank owes as much to me as to any other individual in the country; and I might even add that, had it not been for my efforts, it would not have been chartered. Standing in this relation to the institution, a high sense of delicacy, a regard to independence and character, has restrained me from any connection with the institution whatever, except some trifling accommodations, in the way of ordinary business, which were not of the slightest importance either to the bank or myself."

Certainly there was no necessity for Mr. Calhoun to make this disclaimer. His character for pecuniary integrity placed him above the suspicion of a venal motive. His errors came from a different source—from the one that Cæsar thought excusable when empire was to be attained. Mr. Clay also took the opportunity to disclaim any present connection with, or past favors from the bank; and,

"Begged permission to trespass a few moments longer on the Senate, to make a statement concerning himself personally. He had heard that one high in office had allowed himself to assert that a dishonorable connection had subsisted between him (Mr. C.), and the Bank of the United States. When the present charter was granted, he voted for it; and, having done so, he did not feel himself at liberty to subscribe, and he did not subscribe, for a single share in the stock of the bank, although he confidently anticipated a great rise in the value of the stock. A few years afterwards, during the presidency of Mr. Jones, is was thought, by some of his friends at Philadelphia, expedient to make him (Mr. C.), a director of the Bank of the United States; and he was made a director without any consultation with him. For that purpose five shares were purchased for him, by a friend, for which he (Mr. C.), afterwards paid. When he ceased to be a director, a short time subsequently, he disposed of those shares. He does not now own, and has not for many years been the proprietor of, a single share.

"When Mr. Cheves was appointed president of the bank, its affairs in the States of Kentucky and Ohio were in great disorder; and his (Mr. C.'s), professional services were engaged during several years for the bank in those States. He brought a vast number of suits, and transacted a great amount of professional business for the bank. Among other suits was that for the recovery of the one hundred thousand dollars, seized under the authority of a law of Ohio, which he carried through the inferior and supreme courts. He was paid by the bank the usual compensation for these services, and no more. And he ventured to assert that no professional fees were ever more honestly and fairly earned. He had not, however, been the counsel for the bank for upwards of eight years past. He does not owe the bank, or any one of its branches, a solitary cent. About twelve or fifteen years ago, owing to the failure of a highly estimable (now deceased), friend, a large amount of debt had been, as his indorser, thrown upon him (Mr. C.), and it was principally due to the Bank of the United States. He (Mr C.) established for himself a rigid economy, a sinking fund, and worked hard, and paid off the debt

long since, without receiving from the bank the slightest favor. Whilst others around him were discharging their debts in property, at high valuations, he periodically renewed his note, paying the discount, until it was wholly extinguished."

But it was not every member who could thus bsolve himself from bank connection, favor, or dependence. The list of congressional borrowers, or retainers, was large—not less than fifty of the former at a time, and a score of the latter; and even after the failure of the bank and the assignment of its effects, and after all possible liquidations had been effected by taking property at "high valuation," allowing largely for "professional services," and liberal resorts to the "profit and loss" account, there remained many to be sued by the assignees to whom their notes were passed; and some of such early date as to be met by a plea of the statute of limitations in bar of the stale demand. Mr. Calhoun concluded with a "lift to the panic" in a reference to the "fearful crisis" in which we were involved—the dangers ahead to the liberties of the country—the perils of our institutions—and a hint at his permanent remedy—his panacea for all the diseases of the body politic—dissolution of the Union. He ended thus:

"We have (said Mr. C.), arrived at a fearful crisis; things cannot long remain as they are. It behooves all who love their country, who have affection for their offspring, or who have any stake in our institutions, to pause and reflect. Confidence is daily withdrawing from the general government. Alienation is hourly going on. These will necessarily create a state of things inimical to the existence of our institutions, and, if not speedily arrested, convulsions must follow, and then comes dissolution or despotism; when a thick cloud will be thrown over the cause of liberty and the future prospects of our country."

CHAPTER CII.

PUBLIC DISTRESS.

From the moment of the removal of the deposits, it was seen that the plan of the Bank of the United States was to force their return, and with it a renewal of its charter, by operating on the business of the country and the alarms of the people. For this purpose, loans and accommodations were to cease at the mother bank and all its branches, and in all the local banks over which the national bank had control; and at the same time that discounts were stopped, curtailments were made; and all business men called on for the payment of all they owed, at the same time that all the usual sources of supply were stopped. This pressure was made to fall upon the business community, especially upon large establishments employing a great many operatives; so as to throw as many laboring people as possible out of employment. At the same time, politicians engaged in making panic, had what amounts they pleased, an instance of a loan of $100,000 to a single one of these agitators, being detected; and a loan of $1,100,000 to a broker, employed in making distress, and in relieving it in favored cases at a usury of two and a half per centum per month. In this manner, the business community was oppressed, and in all parts of the Union at the same time: the organization of the national bank, with branches in every State, and its control over local banks, being sufficient to enable it to have its policy carried into effect in all places, and at the same moment. The first step in this policy was to get up distress meetings—a thing easily done—and then to have these meetings properly officered and conducted. Men who had voted for Jackson, but now renounced him, were procured for president, vice-presidents, secretaries, and orators; distress orations were delivered; and, after sufficient exercise in that way, a memorial and a set of resolves, prepared for the occasion, were presented and adopted. After adoption, the old way of sending by the mail was discarded, and a deputation selected to proceed to Washington and make delivery of their lugubrious document. These memorials generally came in duplicate, to be presented, in both Houses at once, by a senator from the State and the representative from the district. These, on presenting the petition, delivered a distress harangue on its contents, often supported by two or three adjunct speakers, although there was a rule to forbid any thing being said on such occasions, except to make a brief statement of the contents. Now they were read in violation of the rule, and spoke upon in violation of the rule, and printed

never to be read again, and referred to a committee, never more to be seen by it; and bound up in volumes to encumber the shelves of the public documents. Every morning, for three months, the presentation of these memorials, with speeches to enforce them, was the occupation of each House: all the memorials bearing the impress of the same mint, and the orations generally cast after the same pattern. These harangues generally gave, in the first place, some topographical or historical notice of the county or town from which it came—sometimes with a hint of its revolutionary services—then a description of the felicity which it enjoyed while the bank had the deposits; then the ruin which came upon it, at their loss; winding up usually with a great quantity of indignation against the man whose illegal and cruel conduct had occasioned such destruction upon their business. The meetings were sometimes held by young men; sometimes by old men; sometimes by the laboring, sometimes by the mercantile class; sometimes miscellaneous, and irrespective of party; and usually sprinkled over with a smart number of former Jackson-men, who had abjured him on account of this conduct to the bank. Some passages will be given from a few of these speeches, as specimens of the whole; the quantity of which contributed to swell the publication of the debates of that Congress to four large volumes of more than one thousand pages each. Thus, Mr. Tyler of Virginia, in presenting a memorial from Culpeper county, and hinting at the military character of the county, said:

"The county of Culpeper, as he had before observed, had been distinguished for its whiggism from the commencement of the Revolution; and, if it had not been the first to hoist the revolutionary banner, at the tap of the drum, they were second to but one county, and that was the good county of Hanover, which had expressed the same opinion with them on this all-important subject. He presented the memorial of these sons of the whigs of the Revolution, and asked that it might be read, referred to the appropriate committee, and printed."

Mr. Robbins of Rhode Island, in presenting memorials from the towns of Smithfield and Cumberland in that State:

"A small river runs through these towns, called Blackstone River; a narrow stream, of no great volume of water, but perennial and unfailing, and possessing great power from the frequency and greatness of its falls. Prior to 1791, this power had always run to waste, except here and there a saw mill or a grist mill, to supply the exigencies of a sparse neighborhood, and one inconsiderable forge. Since that period, from time to time, and from place to place, that power, instead of running to waste, has been applied to the use of propelling machinery, till the valley of that small river has become the Manchester of America. That power is so unlimited, that scarcely any limitation can be fixed to its capability of progressive increase in its application. That valley, in these towns, already has in it over thirty different establishments; it has in it two millions of fixed capital in those establishments; it has expended in it annually, in the wages of manual labor, five hundred thousand dollars; it has in it one hundred thousand spindles in operation. I should say it had—for one half of these spindles are already suspended, and the other half soon must be suspended, if the present state of things continues. On the bank of that river, the first cotton spindle was established in America. The invention of Arkwright, in 1791, escaped from the jealous prohibitions of England, and planted itself there. It was brought over by a Mr. Slater, who had been a laboring manufacturer in England, but who was not a machinist. He brought it over, not in models, but in his own mind, and fortunately he was blessed with a mind capacious of such things, and which by its fair fruits, has made him a man of immense fortune, and one of the greatest benefactors to his adopted country. There he made the first essays that laid the foundation of that system which has spread so far and wide in this country, and risen to such a height that it makes a demand annually for two hundred and fifty thousand bales of cotton—about one fourth of all the cotton crop of all our cotton-growing States; makes for those States, for their staple, the best market in the world, except that of England: it was rapidly becoming to them the best market in the world, not excepting that of England; still better, it was rapidly becoming for them a market to weigh down and preponderate in the scale against all the other markets of the world taken together. Now, all those prospects are blasted by one breath of the Executive administration of this country. Now every thing in that valley, every thing in possession, every thing in prospect, is tottering to its fall. One half of those one hundred thousand spindles are, as I before stated, already stopped; the other half are still continued, but at a loss to the owners, and purely from charity to the laborers; but this charity has its limit; and regard to their own safety will soon constrain them to stop the other half. Five months ago, had one travelled through that valley and witnessed the scenes then displayed there—their numerous and dense population, all industrious, and thriving, and contented—had heard the busy hum of industry in their hours of labor—the notes of joy in their hours of re-

taxation—had seen the plenty of their tables, the comforts of their firesides—had, in a word, seen in every countenance the content of every heart; and if that same person should travel through the same valley hereafter, and should find it then deserted, and desolate, and silent as the valley of death, and covered over with the solitary and mouldering ruins of those numerous establishments, he would say, 'Surely the hand of the ruthless destroyer has been here!' Now, if the present state of things is to be continued, as surely as blood follows the knife that has been plunged to the heart, and death ensues, so surely that change there is to take place; and he who ought to have been their guardian angel, will have been that ruthless destroyer."

And thus Mr. Webster, in presenting a memorial from Franklin county, in the State of Pennsylvania:

"The county of Franklin was one of the most respectable and wealthy in the great State of Pennsylvania. It was situated in a rich limestone valley, and, in its main character, was agricultural. He had the pleasure, last year, to pass through it, and see it for the first time, when its rich fields of wheat and rye were ripening, and, certainly, he little thought then, that he should, at this time have to present to the Senate such undeniable proofs of their actual, severe and pressing distress. As he had said, the inhabitants of Franklin county were principally agriculturists, and, of these, the majority were the tillers of their own land. They were interested, also, in manufactures to a great extent; they had ten or twelve forges, and upwards of four thousand persons engaged in the manufacture of iron, dependent for their daily bread on the product of their own labor. The hands employed in this business were a peculiar race —miners, colliers, &c.—and, if other employment was to be afforded them, they would find themselves unsuited for it. These manufactories had been depressed, from causes so well explained, and so well understood, that nobody could now doubt them. They were precisely in the situation of the cotton factories he had adverted to some days ago. There was no demand for their products. The consignee did not receive them —he did not hope to dispose of them, and would not give his paper for them. It was well known that, when a manufactured article was sent to the cities, the manufacturer expected to obtain an advance on them, which he got cashed. This whole operation having stopped, in consequence of the derangement of the currency, the source of business was dried up. There were other manufactories in that county that also felt the pressure—paper factories and manufactories of straw paper, which increased the gains of agriculture. These, too, have been under the necessity of dismissing many of those employed by them, which necessity brought this matter of Executive interference home to every man's labor and property. He had ascertained the prices of produce as now, and in November last, in the State of Pennsylvania, and from these, it would be seen that, in the interior region, on the threshing floors, they had not escaped the evils which had affected the prices of corn and rye at Chambersburg. They were hardly to be got rid of at any price. The loss on wheat, the great product of the county, was thirty cents. Clover seed, another great product, had fallen from six dollars per bushel to four dollars. This downfall of agricultural produce described the effect of the measure of the Executive better than all the evidences that had been hitherto offered. These memorialists, for themselves, were sick, sick enough of the Executive experiment."

And thus Mr. Southard in presenting the memorial of four thousand "young men" of the city of Philadelphia:

"With but very few of them am I personally acquainted—and must rely, in what I say of them, upon what I know of those few, and upon the information received from others, which I regard as sure and safe. And on these, I venture to assure the Senate, that no meeting of young men can be collected, in any portion of our wide country, on any occasion, containing more intelligence—more virtuous purpose—more manly and honorable feeling—more decided and energetic character What they say, they think. What they resolve they will accomplish. Their proceedings were ardent and animated—their resolutions are drawn with spirit; but are such as, I think, may be properly received and respected by the Senate. They relate to the conduct of the Executive—to the present condition of the country—to the councils which now direct its destinies. They admit that older and more mature judgments may better understand the science of government and its practical operations, but they act upon a feeling just in itself, and valuable in its effects, that they are fit to form and express opinions on public measures and public principles, which shall be their own guide in their present and future conduct; and they express a confident reliance on the moral and physical vigor and untamable love of freedom of the young men of the United States to save us from despotism, open and avowed, or silent, insidious, and deceitful. They were attracted, or rather urged, sir, to this meeting, and to the expression of their feelings and opinions, by what they saw around, and knew of the action of the Executive upon the currency and prosperity of the country. They have just entered, or are about entering, on the busy occupations of manhood, and are suddenly surprised by a state of things around them, new to their observation and experience. Calamity had been a stranger in their pathway. They have grown up through their boyhood in the enjoyments of present comfort,

and the anticipations of future prosperity—their seniors actively and successfully engaged in the various occupations of the community, and the whole circle of employments open before their own industry and hopes—the institutions of their country beloved, and their protecting influence covering the exertions of all for their benefit and happiness. In this state they saw the public prosperity, with which alone they were familiar, blasted, and for the time destroyed. The whole scene, their whole country, was changed; they witnessed fortunes falling, homesteads ruined, merchants failing, artisans broken, mechanics impoverished, all the employments on which they were about to enter, paralyzed; labor denied to the needy, and reward to the industrious; losses of millions of property and gloom settling where joy and happiness before existed. They felt the sirocco pass by, and desolate the plains where peace, and animation, and happiness exulted."

And thus Mr. Clay in presenting a memorial from Lexington, Kentucky:

"If there was any spot in the Union, likely to be exempt from the calamities that had afflicted the others, it would be the region about Lexington and its immediate neighborhood. Nowhere, to no other country, has Providence been more bountiful in its gifts. A country so rich and fertile that it yielded in fair and good seasons from sixty to seventy bushels of corn to the acre. It was a most beautiful country—all the land in it, not in a state of cultivation, was in parks (natural meadows), filled with flocks and herds, fattening on its luxuriant grass. But in what country, in what climate, the most favored by Heaven, can happiness and prosperity exist against bad government, against misrule, and against rash and ill-advised experiments? On the mountain's top, in the mountain's cavern, in the remotest borders of the country, every where, every interest has been affected by the mistaken policy of the Executive. While he admitted that the solicitude of his neighbors and friends was excited in some degree by the embarrassments of the country, yet they felt a deeper solicitude for the restoration of the rightful authority of the constitution and the laws. It is this which excites their apprehensions, and creates all their alarm. He would not, at this time, enlarge further on the subject of this memorial. He would only remark, that hemp, the great staple of the part of the country from whence the memorial came, had fallen twenty per cent. since he left home, and that Indian corn, another of its greatest staples, the most valuable of the fruits of the earth for the use of man, which the farmer converted into most of the articles of his consumption, furnishing him with food and raiment, had fallen to an equal extent. There were in that county six thousand fat bullocks now remaining unsold, when, long before this time last year, there was scarcely one to be purchased. They were not sold, because the butchers could not obtain from the banks the usual facilities in the way of discounts; they could not obtain funds in anticipation of their sales wherewith to purchase; and now $100,000 worth of this species of property remains on hand, which, if sold, would have been scattered through the country by the graziers, producing all the advantages to be derived from so large a circulation. Every farmer was too well aware of these facts one moment to doubt them. We are, said Mr. C., not a complaining people. We think not so much of distress. Give us our laws—guarantee to us our constitution—and we will be content with almost any form of government."

And Mr. Webster thus, in presenting a memorial from Lynn, Massachusetts:

"Those members of the Senate, said Mr. W., who have travelled from Boston to Salem, or to Nahant, will remember the town of Lynn. It is a beautiful town, situated upon the sea, is highly industrious, and has been hitherto prosperous and flourishing. With a population of eight thousand souls, its great business is the manufacture of shoes. Three thousand persons, men, women, and children, are engaged in this manufacture. They make and sell, ordinarily, two millions of pairs of shoes a year, for which, at 75 cents a pair, they receive one million five hundred thousand dollars. They consume half a million of dollars worth of leather, of which they buy a large portion in Philadelphia and Baltimore, and the rest in their own neighborhood. The articles manufactured by them are sent to all parts of the country, finding their way into every principal port, from Eastport round to St. Louis. Now, sir, when I was last among the people of this handsome town, all was prosperity and happiness. Their business was not extravagantly profitable; they were not growing rich over fast, but they were comfortable, all employed, and all satisfied and contented. But, sir, with them, as with others, a most serious change has taken place. They find their usual employments suddenly arrested, from the same cause which has smitten other parts of the country with like effects; and they have sent forward a memorial, which I have now the honor of laying before the Senate. This memoral, sir, is signed by nine hundred of the legal voters of the town; and I understand the largest number of votes known to have been given is one thousand. Their memorial is short; it complains of the illegal removal of the deposits, of the attack on the bank, and of the effect of these measures on their business."

And thus Mr. Kent, of Maryland, in presenting petitions from Washington county in that State:

"They depict in strong colors the daily increasing distress with which they are surround

ed. They deeply deplore it, without the ability to relieve it, and they ascribe their condition to the derangement of the currency, and a total want of confidence, not only between man and man, but between banks situated even in the same neighborhood — all proceeding, as they believe, from the removal of the public deposits from the Bank of the United States. Four months since, and the counties from whence these memorials proceed, presented a population as contended and prosperous as could be found in any section of the country. But, sir, in that short period, the picture is reversed. Their rich and productive lands, which last fall were sought after with avidity at high prices, they inform us, have fallen 25 per cent., and no purchasers are to be found even at that reduced price. Wheat, the staple of that region of the country, was never much lower, if as low. Flour is quoted in Alexandria at $3 75, where a large portion of their crops seek a market. These honest, industrious people cannot withstand the cruel and ruinous consequences of this desperate and unnecessary experiment. The country cannot bear it, and unless speedy relief is afforded, the result of it will be as disastrous to those who projected it, as to the country at large, who are afflicted with it."

And thus Mr. Webster, presenting a petition from the master builders of Philadelphia, sent on by a large deputation:

"I rise, sir, to perform a pleasing duty. It is to lay before the Senate the proceedings of a meeting of the building mechanics of the city and county of Philadelphia, convened for the purpose of expressing their opinions on the present state of the country, on the 24th of February. This meeting consisted of three thousand persons, and was composed of carpenters, masons, brickmakers, bricklayers, painters and glaziers, lime burners, plasterers, lumber merchants and others, whose occupations are connected with the building of houses. I am proud, sir, that so respectable, so important, and so substantial a class of mechanics, have intrusted me with the presentment of their opinions and feelings respecting the present distress of the country, to the Senate. I am happy if they have seen, in the course pursued by me here, a policy favorable to the protection of their interest, and the prosperity of their families. These intelligent and sensible men, these highly useful citizens, have witnessed the effect of the late measures of government upon their own concerns; and the resolutions which I have now to present, fully express their convictions on the subject. They propose not to reason, but to testify; they speak what they do know.

"Sir, listen to the statement; hear the facts. The committee state, sir, that eight thousand persons are ordinarily employed in building houses, in the city and county of Philadelphia; a number which, with their families, would make quite a considerable town. They further state, that the average number of houses, which this body of mechanics has built, for the last five years, is twelve hundred houses a year. The average cost of these houses is computed at two thousand dollars each. Here is a business, then, sir, of two millions four hundred thousand dollars a year. Such has been the average of the last five years. And what is it now? Sir, the committee state that the business has fallen off seventy-five per cent. at least; that is to say, that, at most, only one-quarter part of their usual employment now remains. This is the season of the year in which building contracts are made. It is now known what is to be the business of the year. Many of these persons, who have heretofore had, every year, contracts for several houses on hand, have this year no contract at all. They have been obliged to dismiss their hands, to turn them over to any scraps of employment they could find, or to leave them in idleness, for want of any employment.

"Sir, the agitations of the country are not to be hushed by authority. Opinions, from however high quarters, will not quiet them. The condition of the nation calls for action, for measures, for the prompt interposition of Congress; and until Congress shall act, be it sooner or be it later, there will be no content, no repose, no restoration of former prosperity. Whoever supposes, sir, that he, or that any man, can quiet the discontents, or hush the complaints of the people by merely saying, "peace, be still!" mistakes, shockingly mistakes, the real condition of things. It is an agitation of interests, not of opinions; a severe pressure on men's property and their means of living, not a barren contest about abstract sentiments. Even, sir, the voice of party, often so sovereign, is not of power to subdue discontents and stifle complaints. The people, sir, feel great interests to be at stake, and they are rousing themselves to protect those interests. They consider the question to be, whether the government is made for the people, or the people for the government. They hold the former of these two propositions, and they mean to prove it.

"Mr. President, this measure of the Secretary has produced a degree of evil that cannot be borne. Talk about it as we will, it cannot be borne. A tottering state of credit, cramped means, loss of property and loss of employment, doubts of the condition of others, doubts of their own condition, constant fear of failures and new explosions, an awful dread of the future—sir when a consciousness of all these things accompanies a man, at his breakfast, his dinner and his supper: when it attends him through his hours, both of labor and rest; when it even disturbs and haunts his dreams. and when he feels, too, that that which is thus gnawing upon him is the pure result of foolish and rash measures of government, depend upon it he will not bear it. A deranged and disordered currency the ruin of occupation, distress for present means

the prostration of credit and confidence, and all this without hope of improvement or change, is a state of things which no intelligent people can long endure."

Mr. Clay rose to second the motion of Mr Webster to refer and print this memorial; and, after giving it as his opinion that the property of the country had been reduced four hundred millions of dollars in value, by the measures of the government, thus apostrophized the Vice-President (Mr. Van Buren), charging him with a message of prayer and supplication to President Jackson:

"But there is another quarter which possesses sufficient power and influence to relieve the public distresses. In twenty-four hours, the executive branch could adopt a measure which would afford an efficacious and substantial remedy, and re-establish confidence. And those who, in this chamber, support the administration, could not render a better service than to repair to the executive mansion, and, placing before the Chief Magistrate the naked and undisguised truth, prevail upon him to retrace his steps and abandon his fatal experiment. No one, sir, can perform that duty with more propriety than yourself. [The Vice-President.] You can, if you will, induce him to change his course. To you, then, sir, in no unfriendly spirit, but with feelings softened and subdued by the deep distress which pervades every class of our countrymen, I make the appeal. By your official and personal relations with the President, you maintain with him an intercourse which I neither enjoy nor covet. Go to him and tell him, without exaggeration, but in the language of truth and sincerity, the actual condition of his bleeding country. Tell him it is nearly ruined and undone by the measures which he has been induced to put in operation. Tell him that his experiment is operating on the nation like the philosopher's experiment upon a convulsed animal, in an exhausted receiver, and that it must expire, in agony, if he does not pause, give it free and sound circulation, and suffer the energies of the people to be revived and restored. Tell him that, in a single city, more than sixty bankruptcies, involving a loss of upwards of fifteen millions of dollars, have occurred. Tell him of the alarming decline in the value of all property, of the depreciation of all the products of industry, of the stagnation in every branch of business, and of the close of numerous manufacturing establishments, which, a few short months ago, were in active and flourishing operation. Depict to him, if you can find language to portray, the heart-rending wretchedness of thousands of the working classes cast out of employment. Tell him of the tears of helpless widows, no longer able to earn their bread, and of unclad and unfed orphans who have been driven, by his policy, out of the busy pursuits in which but yesterday they were gaining an honest livelihood. Say to him that if firmness be honorable, when guided by truth and justice, it is intimately allied to another quality, of the most pernicious tendency, in the prosecution of an erroneous system. Tell him how much more true glory is to be won by retracing false steps, than by blindly rushing on until his country is overwhelmed in bankruptcy and ruin. Tell him of the ardent attachment, the unbounded devotion, the enthusiastic gratitude, towards him, so often signally manifested by the American people, and that they deserve, at his hands, better treatment. Tell him to guard himself against the possibility of an odious comparison with that worst of the Roman emperors, who, contemplating with indifference the conflagration of the mistress of the world, regaled himself during the terrific scene in the throng of his dancing courtiers. If you desire to secure for yourself the reputation of a public benefactor, describe to him truly the universal distress already produced, and the certain ruin which must ensue from perseverance in his measures. Tell him that he has been abused, deceived, betrayed, by the wicked counsels of unprincipled men around him. Inform him that all efforts in Congress to alleviate or terminate the public distress are paralyzed and likely to prove totally unavailing, from his influence upon a large portion of the members, who are unwilling to withdraw their support, or to take a course repugnant to his wishes and feelings. Tell him that, in his bosom alone, under actual circumstances, does the power abide to relieve the country; and that, unless he opens it to conviction, and corrects the errors of his administration, no human imagination can conceive, and no human tongue can express the awful consequences which may follow. Entreat him to pause, and to reflect that there is a point beyond which human endurance cannot go; and let him not drive this brave, generous, and patriotic people to madness and despair."

During the delivery of this apostrophe, the Vice-President maintained the utmost decorum of countenance, looking respectfully, and even innocently at the speaker, all the while, as if treasuring up every word he said to be faithfully repeated to the President. After it was over, and the Vice-President had called some senator to the chair, he went up to Mr. Clay, and asked him for a pinch of his fine maccoboy snuff (as he often did); and, having received it, walked away. But a public meeting in Philadelphia took the performance seriously to heart, and adopted this resolution, which the indefatigable Hezekiah Niles "registered" for the information of posterity:

"*Resolved*, That Martin Van Buren deserves, and will receive the execrations of all good men,

should he shrink from the responsibility of conveying to Andrew Jackson the message sent by the honorable Henry Clay, when the builders' memorial was presented to the Senate. I charge you, said he, go the President and tell him—tell him if he would save his country—if he would save himself—tell him to stop short, and ponder well his course—tell him to retrace his steps, before the injured and insulted people, infuriated by his experiment upon their happiness, rises in the majesty of power, and hurls the usurper down from the seat he occupies, like Lucifer, never to rise again."

Mr. Benton replied to these distress petitions, and distress harangues, by showing that they were nothing but a reproduction, with a change of names and dates, of the same kind of speeches and petitions which were heard in the year 1811, when the charter of the first national bank was expiring, and when General Jackson was not President—when Mr. Taney was not Secretary of the Treasury—when no deposits had been removed, and when there was no quarrel between the bank and the government; and he read copiously from the Congress debates of that day to justify what he said; and declared the two scenes, so far as the distress was concerned, to be identical. After reading from these petitions and speeches, he proceeded to say:

"All the machinery of alarm and distress was in as full activity at that time as at present, and with the same identical effects. Town meetings —memorials—resolutions—deputations to Congress—alarming speeches in Congress. The price of all property was shown to be depressed. Hemp sunk in Philadelphia from $350 to $250 per ton; flour sunk from $11 a barrel to $7 75; all real estate fell thirty per cent.; five hundred houses were suspended in their erection; the rent of money rose to one and a half per month on the best paper. Confidence destroyed—manufactories stopped—workmen dismissed—and the ruin of the country confidently predicted. This was the scene then; and for what object? Purely and simply to obtain a recharter of the bank—purely and simply to force a recharter from the alarm and distress of the country; for there was no removal of deposits then to be complained of, and to be made the scape-goat of a studied and premeditated attempt to operate upon Congress through the alarms of the people and the destruction of their property. There was not even a curtailment of discounts then. The whole scene was fictitious; but it was a case in which fiction does the mischief of truth. A false alarm in the money market produces all the effects of real danger; and thus, as much distress was proclaimed in Congress in 1811—as much distress was proved to exist, and really did exist—then as now; without a single cause to be alleged then, which is alleged now. But the power and organization of the bank made the alarm then; its power and organization make it now; and fictitious on both occasions; and men were ruined then, as now, by the power of imaginary danger, which in the moneyed world, has all the ruinous effects of real danger. No deposits were removed then, and the reason was, as assigned by Mr. Gallatin to Congress, that the government had borrowed more than the amount of the deposits from the bank; and this loan would enable her to protect her interest in every contingency. The open object of the bank then was a recharter. The knights entered the lists with their visors off—no war in disguise then for the renewal of a charter under the tilting and jousting of a masquerade scuffle for recovery of deposits."

This was a complete reply, to which no one could make any answer; and the two distresses all proved the same thing, that a powerful national bank could make distress when it pleased; and would always please to do it when it had an object to gain by it—either in forcing a recharter or in reaping a harvest of profit by making a contraction of debts after having made an expansion of credits.

It will be difficult for people in after times to realize the degree of excitement, of agitation and of commotion which was produced by this organized attempt to make panic and distress. The great cities especially were the scene of commotions but little short of frenzy—public meetings of thousands, the most inflammatory harangues, cannon firing, great feasts—and the members of Congress who spoke against the President received when they travelled with public honors, like conquering generals returning from victorious battle fields—met by masses, saluted with acclamations, escorted by processions, and their lodgings surrounded by thousands calling for a view of their persons. The gaining of a municipal election in the city of New-York put the climax upon this enthusiasm; and some instances taken from the every day occurrences of the time may give some faint idea of this extravagant exaltation. Thus:

"Mr. Webster, on his late journey to Boston, was received and parted with at Philadelphia, New-York, Providence, &c., by thousands of the people."

"Messrs. Poindexter, Preston and McDuffie visited Philadelphia the beginning of this week, and received the most flattering attention of the citizens—thousands having waited upon to honor them; and they were dined, &c., with great enthusiasm."

"A very large public meeting was held at the Musical Fund Hall, Philadelphia, on Monday afternoon last, to compliment the 'whigs' of New-York on the late victory gained by them. Though thousands were in the huge room, other thousands could not get in! It was a complete 'jam.' John Sergeant was called to the chair, and delivered an address of 'great power and ability'—'one of the happiest efforts' of that distinguished man. Mr. Preston of the Senate, and Mr. McDuffie of the House of Representatives, were present. The first was loudly called for, when Mr. Sergeant had concluded, and he addressed the meeting at considerable length. Mr. McDuffie was then as loudly named, and he also spoke with his usual ardency and power, in which he paid a handsome compliment to Mr. Sergeant, who, though he had differed in opinion with him, he regarded as a 'sterling patriot,' &c. Each of these speeches were received with hearty and continued marks of approbation, and often interrupted with shouts of applause. The like, it is said, had never before been witnessed in Philadelphia. The people were in the highest possible state of enthusiasm."

"An immense multitude of people partook of a collation in Castle Garden, New-York, on Tuesday afternoon, to celebrate the victory gained in the 'three days.' The garden was dressed with flags, and every thing prepared on a grand scale. Pipes of wine and barrels of beer were present in abundance, with a full supply of eatables. After partaking of refreshments (in which a great deal of business was done in a short time, by the thousands employed —for many mouths, like many hands, make quick work!) the meeting was organized, by appointing Benjamin Wells, carpenter, president, twelve vice-presidents, and four secretaries, of whom there was one cartman, one sail maker, one grocer, one watchmaker, one ship carpenter, one potter, one mariner, one physician, one printer, one surveyor, four merchants, &c. The president briefly, but strongly, addressed the multitude, as did several other gentlemen. A committee of congratulation from Philadelphia was presented to the people and received with shouts. When the time for adjournment arrived, the vast multitude, in a solid column, taking a considerable circuit, proceeded to Greenwich-street, where Mr. Webster was dining with a friend. Loudly called for, he came forward, and was instantly surrounded by a dense mass of merchants and cartmen, sailors and mechanics, professional men and laborers, &c., seizing him by his hands. He was asked to say a few words to the people, and did so. He exhorted them to perseverance in support of the constitution, and, as a dead silence prevailed, he was heard by thousands. He thanked them, and ended by hoping that God would bless them all."

"Saturday Messrs. Webster, Preston and Binney were expected at Baltimore; and, though raining hard, thousands assembled to meet them. Sunday they arrived, and were met by a dense mass, and speeches exacted. A reverend minister of the Gospel, in excuse of such a gathering on the Sabbath, said that in revolutionary times there were no Sabbaths. They were conducted to the hotel, where 5,000 well-dressed citizens received them with enthusiasm."

"Mr. McDuffie reached Baltimore in the afternoon of Saturday last, on his return to Washington, and was received by from 1,500 to 2,000 people, who were waiting on the wharf for the purpose. He was escorted to the City Hotel, and, from the steps, addressed the crowd (now increased to about 3,000 persons), in as earnest a speech, perhaps, as he ever pronounced—and the *manner* of his delivery was not less forcible than the *matter* of his remarks. Mr. McD. spoke for about half an hour; and, while at one moment he produced a roar of laughter, in the next he commanded the entire attention of the audience, or elicited loud shouts of applause.

"The brief addresses of Messrs. Webster, Binney, McDuffie, and Preston, to assembled multitudes in Baltimore, and the manner in which they were received, show a new state of feelings and of things in this city. When Mr. McDuffie said that ten days after the entrance of soldiers into the Senate chamber, to send the senators home, that 200,000 volunteers would be in Washington, there was such a shout as we have seldom before heard."

"There was a mighty meeting of the people, and such a feast as was never before prepared in the United States, held near Philadelphia, on Tuesday last, as a rallying 'to support the constitution,' and 'in honor of the late whig victory at New-York,' a very large delegation from that city being in attendance, bringing with them their frigate-rigged and highly-finished boat, called the 'Constitution,' which had been passed through the streets during the 'three days.' The arrival of the steamboat with this delegation on board, and the procession that was then formed, are described in glowing terms. The whole number congregated was supposed not to be less than fifty thousand, multitudes attending from adjacent parts of Pennsylvania, New Jersey, Delaware, &c. Many cattle and other animals had been roasted whole, and there were 200 great rounds of beef, 400 hams, as many beeves' tongues, &c., and 15,000 loaves of bread, with crackers and cheese, &c., and equal supplies of wine, beer, and cider. This may give some idea of the magnitude of the feast. John Sergeant presided, assisted by a large number of vice-presidents, &c. Strong bands of music played at intervals, and several salutes were fired from the miniature frigate, which were returned by heavy artillery provided for the purpose."

Notices, such as these, might be cited in any number; but those given are enough to show to what a degree people can be excited, when a great moneyed power, and a great political party, combine for the purpose of exciting the passions

through the public sufferings and the public alarms. Immense amounts of money were expended in these operations; and it was notorious that it chiefly came from the great moneyed corporation in Philadelphia.

CHAPTER CIII.

SENATORIAL CONDEMNATION OF PRESIDENT JACKSON: HIS PROTEST: NOTICE OF THE EXPUNGING RESOLUTION.

Mr. Clay and Mr. Calhoun were the two leading spirits in the condemnation of President Jackson. Mr. Webster did not speak in favor of their resolution, but aided it incidentally in the delivery of his distress speeches. The resolution was theirs, modified from time to time by themselves, without any vote of the Senate, and by virtue of the privilege which belongs to the mover of any motion to change it as he pleases, until the Senate, by some action upon it, makes it its own. It was altered repeatedly, and up to the last moment; and after undergoing its final mutation, at the moment when the yeas and nays were about to be called, it was passed by the same majority that would have voted for it on the first day of its introduction. The yeas were: Messrs. Bibb of Kentucky; Black of Mississippi; Calhoun; Clay; Clayton of Delaware; Ewing of Ohio; Frelinghuysen of New Jersey; Kent of Maryland; Knight of Rhode Island; Leigh of Virginia; Mangum of North Carolina; Naudain of Delaware; Poindexter of Mississippi; Porter of Louisiana; Prentiss of Vermont; Preston of South Carolina; Robbins of Rhode Island; Silsbee of Massachusetts; Nathan Smith of Connecticut; Southard of New Jersey; Sprague of Maine; Swift of Vermont; Tomlinson of Connecticut; Tyler of Virginia; Waggaman of Louisiana; Webster.—26. The nays were: Messrs. Benton; Brown of North Carolina; Forsyth of Georgia; Grundy of Tennessee; Hendricks of Indiana; Hill of New Hampshire; Kane of Illinois; King of Alabama; King of Georgia; Linn of Missouri; McKean of Pennsylvania; Moore of Alabama; Morris, of Ohio; Robinson of Illinois; Sheplcy of Maine; Tallmadge of New York; Tipton of Indiana; Hugh L. White of Tennessee; Wilkins of Pennsylvania; Silas Wright of New York.—20. And thus the resolution was passed, and was nothing but an empty fulmination —a mere personal censure—having no relation to any business or proceeding in the Senate; and evidently intended for effect on the people. To increase this effect, Mr. Clay proposed a resolve that the Secretary should count the names of the signers to the memorials for and against the act of the removal, and strike the balance between them, which he computed at an hundred thousand: evidently intending to add the effect of this popular voice to the weight of the senatorial condemnation. The number turned out to be unexpectedly small, considering the means by which they were collected.

When passed, the total irrelevance of the resolution to any right or duty of the Senate was made manifest by the insignificance that attended its decision. There was nothing to be done with it, or upon it, or under it, or in relation to it. It went to no committee, laid the foundation for no action, was not communicable to the other House, or to the President; and remained an intrusive fulmination on the Senate Journal: put there not for any legislative purpose, but purely and simply for popular effect. Great reliance was placed upon that effect. It was fully believed—notwithstanding the experience of the Senate, in Mr. Van Buren's case—that a senatorial condemnation would destroy whomsoever it struck—even General Jackson. Vain calculation! and equally condemned by the lessons of history, and by the impulsions of the human heart. Fair play is the first feeling of the masses; a fair and impartial trial is the law of the heart, as well as of the land; and no condemnation is tolerated of any man by his enemies. All such are required to retire from the box and the bench, on a real trial: much more to refrain from a simulated one; and above all from instigating one. Mr. Calhoun and Mr. Clay were both known to have their private griefs against General Jackson and also to have been in vehement opposition to each other, and that they had "compromised" their own bone of contention to be able to act in conjunction against him. The instinctive sagacity of the people saw all this; and their innate sense of justice and decorum revolted at it; and at the end of these proceedings, the results were in exact contradiction to the calculation of their effect. General Jackson

was more popular than ever; the leaders in the movement against him were nationally crippled; their friends, in many instances, were politically destroyed in their States. It was a second edition of "Fox's martyrs."

During all the progress of this proceeding—while a phalanx of orators and speakers were daily fulminating against him—while many hundred newspapers incessantly assailed him—while public meetings were held in all parts, and men of all sorts, even beardless youths, harangued against him as if he had been a Nero—while a stream of committees was pouring upon him (as they were called), and whom he soon refused to receive in that character; during the hundred days that all this was going on, and to judge from the imposing appearance which the crowds made that came to Washington to bring up the "distress," and to give countenance to the Senate, and emphasis to its proceedings, and to fill the daily gallery, applauding the speakers against the President—saluting with noise and confusion those who spoke on his side: during all this time, and when a nation seemed to be in arms, and the earth in commotion against him, he was tranquil and quiet, confident of eventual victory, and firmly relying upon God and the people to set all right. I was accustomed to see him often during that time, always in the night (for I had no time to quit my seat during the day); and never saw him appear more truly heroic and grand than at this time. He was perfectly mild in his language, cheerful in his temper, firm in his conviction; and confident in his reliance on the power in which he put his trust. I have seen him in a great many situations of peril, and even of desperation, both civil and military, and always saw him firmly relying upon the success of the right through God and the people; and never saw that confidence more firm and steady than now. After giving him an account of the day's proceedings, talking over the state of the contest, and ready to return to sleep a little, and prepare much, for the combats of the next day, he would usually say: "We shall whip them yet. The people will take it up after a while." But he also had good defenders present, and in both Houses, and men who did not confine themselves to the defensive—did not limit themselves to returning blow for blow—but assailed the assailants—boldly charging upon them their own illegal conduct—exposing the rottenness of their ally, the bank—showing its corruption in conciliating politicians, and its criminality in distressing the people—and the unholiness of the combination which, to attain political power and secure a bank charter, were seducing the venal, terrifying the timid, disturbing the country, destroying business and property, and falsely accusing the President of great crimes and misdemeanors; because, faithful and fearless, he stood sole obstacle to the success of the combined powers. Our labors were great and incessant, for we had superior numbers, and great ability to contend against. I spoke myself above thirty times; others as often; all many times; and all strained to the utmost; for we felt, that the cause of Jackson was that of the country—his defeat that of the people—and the success of the combination, the delivering up of the government to the domination of a moneyed power which knew no mode of government but that of corruption and oppression. We contended strenuously in both Houses; and as courageously in the Senate against a fixed majority as if we had some chance for success; but our exertions were not for the Senate, but for the people—not to change senatorial votes, but to rouse the masses throughout the land; and while borne down by a majority of ten in the Senate, we looked with pride to the other end of the building; and derived confidence from the contemplation of a majority of fifty, fresh from the elections of the people, and strong in their good cause. It was a scene for Mons. De Tocqueville to have looked on to have learnt which way the difference lay between the men of the direct vote of the people, and those of the indirect vote of the General Assembly, "filtrated" through the "refining" process of an intermediate body.

But although fictitious and forged, yet the distress was real, and did an immensity of mischief. Vast numbers of individuals were ruined, or crippled in their affairs; a great many banks were broken—a run being made upon all that would not come into the system of the national bank. The deposit banks above all were selected for pressure. Several of them were driven to suspension—some to give up the deposits—and the bank in Washington, in which the treasury did its business, was only saved from closing its doors by running wagons with

specie through mud and mire from the mint in Philadelphia to the bank in Washington, to supply the place of what was hauled from the bank in Washington to the national bank in Philadelphia—the two sets of wagons, one going and one coming, often passing each other on the road. But, while ruin was going on upon others, the great corporation in Philadelphia was doing well. The distress of the country was its harvest; and its monthly returns showed constant increases of specie.

When all was over, and the Senate's sentence had been sent out to do its office among the people, General Jackson felt that the time had come for him to speak; and did so in a "Protest," addressed to the Senate, and remarkable for the temperance and moderation of its language. He had considered the proceeding against him, from the beginning, as illegal and void—as having no legislative aim or object—as being intended merely for censure; and, therefore, not coming within any power or duty of the Senate. He deemed it extra-judicial and unparliamentary, legally no more than the act of a town meeting, while invested with the forms of a legal proceeding; and intended to act upon the public mind with the force of a sentence of conviction on an impeachment, while in reality but a personal act against him in his personal, and not in his official character. This idea he prominently put forth in his "Protest;" from which some passages are here given:

"The resolution in question was introduced, discussed, and passed, not as a joint, but as a separate resolution. It asserts no legislative power, proposes no legislative action; and neither possesses the form nor any of the attributes of a legislative measure. It does not appear to have been entertained or passed, with any view or expectation of its issuing in a law or joint resolution, or in the repeal of any law or joint resolution, or in any other legislative action.

"Whilst wanting both the form and substance of a legislative measure, it is equally manifest, that the resolution was not justified by any of the executive powers conferred on the Senate. These powers relate exclusively to the consideration of treaties and nominations to office; and they are exercised in secret session, and with closed doors. This resolution does not apply to any treaty or nomination, and was passed in a public session.

"Nor does this proceeding in any way belong to that class of incidental resolutions which relate to the officers of the Senate, to their chamber, and other appurtenances, or to subjects of order, and other matters of the like nature—in all which either House may lawfully proceed without any co-operation with the other, or with the President.

"On the contrary the whole phraseology and sense of the resolution seem to be judicial. Its essence, true character, and only practical effect, are to be found in the conduct which it charges upon the President, and in the judgment which it pronounces on that conduct. The resolution, therefore, though discussed and adopted by the Senate in its legislative capacity, is, in its office, and in all its characteristics, essentially judicial.

"That the Senate possesses a high judicial power, and that instances may occur in which the President of the United States will be amenable to it, is undeniable. But under the provisions of the constitution, it would seem to be equally plain that neither the President nor any other officer can be rightfully subjected to the operation of the judicial power of the Senate except in the cases and under the forms prescribed by the constitution.

"The constitution declares that 'the President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors'—that the House of Representatives 'shall have the sole power of impeachment'—that the Senate 'shall have the sole power to try all impeachments'—that 'when sitting for that purpose, they shall be on oath or affirmation'—that 'when the President of the United States is tried, the Chief Justice shall preside'—that no person shall be convicted without the concurrence of two-thirds of the members present'—and that 'judgment shall not extend further than to remove from office, and disqualification to hold and enjoy any office of honor, trust or profit, under the United States.'

"The resolution above quoted, charges in substance that in certain proceedings relating to the public revenue, the President has usurped authority and power not conferred upon him by the constitution and laws, and that in doing so he violated both. Any such act constitutes a high crime—one of the highest, indeed, which the President can commit—a crime which justly exposes him to impeachment by the House of Representatives, and upon due conviction, to removal from office, and to the complete and immutable disfranchisement prescribed by the constitution.

"The resolution, then, was in substance an impeachment of the President; and in its passage amounts to a declaration by a majority of the Senate, that he is guilty of an impeachable offence. As such it is spread upon the journals of the Senate—published to the nation and to the world—made part of our enduring archives—and incorporated in the history of the age. The punishment of removal from office and fu-

ture disqualification, does not, it is true, follow this decision; nor would it have followed the like decision, if the regular forms of proceeding had been pursued, because the requisite number did not concur in the result. But the moral influence of a solemn declaration, by a majority of the Senate, that the accused is guilty of the offence charged upon him, has been as effectually secured, as if the like declaration had been made upon an impeachment expressed in the same terms. Indeed, a greater practical effect has been gained, because the votes given for the resolution, though not sufficient to authorize a judgment of guilty on an impeachment, were numerous enough to carry that resolution.

"That the resolution does not expressly allege that the assumption of power and authority, which it condemns, was intentional and corrupt, is no answer to the preceding view of its character and effect. The act thus condemned, necessarily implies volition and design in the individual to whom it is imputed, and being unlawful in its character, the legal conclusion is, that it was prompted by improper motives, and committed with an unlawful intent. The charge is not of a mistake in the exercise of supposed powers, but of the assumption of powers not conferred by the constitution and laws, but in derogation of both, and nothing is suggested to excuse or palliate the turpitude of the act. In the absence of any such excuse, or palliation, there is room only for one inference; and that is, that the intent was unlawful and corrupt. Besides, the resolution not only contains no mitigating suggestion, but on the contrary, it holds up the act complained of as justly obnoxious to censure and reprobation; and thus as distinctly stamps it with impurity of motive, as if the strongest epithets had been used.

"The President of the United States, therefore, has been by a majority of his constitutional triers, accused and found guilty of an impeachable offence; but in no part of this proceeding have the directions of the constitution been observed.

"The impeachment, instead of being preferred and prosecuted by the House of Representatives, originated in the Senate, and was prosecuted without the aid or concurrence of the other House. The oath or affirmation prescribed by the constitution, was not taken by the senators; the Chief Justice did not preside; no notice of the charge was given to the accused; and no opportunity afforded him to respond to the accusation, to meet his accusers face to face, to cross-examine the witnesses, to procure counteracting testimony, or to be heard in his defence. The safeguards and formalities which the constitution has connected with the power of impeachment, were doubtless supposed by the framers of that instrument, to be essential to the protection of the public servant, to the attainment of justice, and to the order, impartiality, and dignity of the procedure. These safeguards and formalities were not only practically disregarded, in the commencement and conduct of these proceedings, but in their result, I find myself convicted by less than two-thirds of the members present, of an impeachable offence."

Having thus shown the proceedings of the Senate to have been extra-judicial and the mere fulmination of a censure, such as might come from a "mass meeting," and finding no warrant in any right or duty of the body, and intended for nothing but to operate upon him personally, he then showed that senators from three States had voted contrary to the sense of their respective State legislatures. On this point he said:

"There are also some other circumstances connected with the discussion and passage of the resolution, to which I feel it to be, not only my right, but my duty to refer. It appears by the journal of the Senate, that among the twenty-six senators who voted for the resolution on its final passage, and who had supported it in debate, in its original form, were one of the senators from the State of Maine, the two senators from New Jersey, and one of the senators from Ohio. It also appears by the same journal, and by the files of the Senate, that the legislatures of these States had severally expressed their opinions in respect to the Executive proceedings drawn in question before the Senate.

"It is thus seen that four senators have declared by their votes that the President, in the late Executive proceedings in relation to the revenue, had been guilty of the impeachable offence of 'assuming upon himself authority and power not conferred by the constitution and laws, but in derogation of both,' whilst the legislatures of their respective States had deliberately approved those very proceedings, as consistent with the constitution, and demanded by the public good. If these four votes had been given in accordance with the sentiments of the legislatures, as above expressed, there would have been but twenty-four votes out of forty-six for censuring the President, and the unprecedented record of his conviction could not have been placed upon the journals of the Senate.

"In thus referring to the resolutions and instructions of State legislatures, I disclaim and repudiate all authority or design to interfere with the responsibility due from members of the Senate to their own consciences, their constituents and their country. The facts now stated belong to the history of these proceedings, and are important to the just development of the principles and interests involved in them, as well as to the proper vindication of the Executive department, and with that view, and that view only, are they here made the topic of remark."

The President then entered his solemn protest against the Senate's proceedings in these words:

"With this view, and for the reasons which have been stated, I do hereby solemnly protest against the aforementioned proceedings of the Senate, as unauthorized by the constitution; contrary to its spirit and to several of its express provisions; subversive of that distribution of the powers of government which it has ordained and established; destructive of the checks and safeguards by which those powers were intended, on the one hand, to be controlled, and, on the other, to be protected; and calculated, by their immediate and collateral effects, by their character and tendency, to concentrate in the hands of a body not directly amenable to the people, a degree of influence and power dangerous to their liberties, and fatal to the constitution of their choice."

And it concluded with an affecting appeal to his private history for the patriotism and integrity of his life, and the illustration of his conduct in relation to the bank, and showed his reliance on God and the People to sustain him; and looked with confidence to the place which justice would assign him on the page of history. This moving peroration was in these words:

"The resolution of the Senate contains an imputation upon my private as well as upon my public character; and as it must stand for ever on their journals, I cannot close this substitute for that defence which I have not been allowed to present in the ordinary form, without remarking, that I have lived in vain, if it be necessary to enter into a formal vindication of my character and purposes from such an imputation. In vain do I bear upon my person, enduring memorials of that contest in which American liberty was purchased; in vain have I since perilled property, fame, and life, in defence of the rights and privileges so dearly bought: in vain am I now, without a personal aspiration, or the hope of individual advantage, encountering responsibilities and dangers, from which, by mere inactivity in relation to a single point, I might have been exempt—if any serious doubts can be entertained as to the purity of my purposes and motives. If I had been ambitious, I should have sought an alliance with that powerful institution, which even now aspires to no divided empire. If I had been venal, I should have sold myself to its designs. Had I preferred personal comfort and official ease to the performance of my arduous duty, I should have ceased to molest it. In the history of conquerors and usurpers, never, in the fire of youth, nor in the vigor of manhood, could I find an attraction to lure me from the path of duty; and now, I shall scarcely find an inducement to commence the career of ambition, when gray hairs and a decaying frame, instead of inviting to toil and battle, call me to the contemplation of other worlds, where conquerors cease to be honored, and usurpers expiate their crimes. The only ambition I can feel, is to acquit myself to Him to whom I must soon render an account of my stewardship, to serve my fellow-men, and live respected and honored in the history of my country. No; the ambition which leads me on, is an anxious desire and a fixed determination, to return to the people, unimpaired, the sacred trust they have confided to my charge—to heal the wounds of the constitution and preserve it from further violation; to persuade my countrymen, so far as I may, that it is not in a splendid government, supported by powerful monopolies and aristocratical establishments, that they will find happiness, or their liberties protected, but in a plain system, void of pomp—protecting all, and granting favors to none—dispensing its blessings like the dews of heaven, unseen and unfelt, save in the freshness and beauty they contribute to produce. It is such a government that the genius of our people requires—such a one only under which our States may remain for ages to come, united, prosperous, and free. If the Almighty Being who has hitherto sustained and protected me, will but vouchsafe to make my feeble powers instrumental to such a result, I shall anticipate with pleasure the place to be assigned me in the history of my country, and die contented with the belief, that I have contributed in some small degree, to increase the value and prolong the duration of American liberty.

"To the end that the resolution of the Senate may not be hereafter drawn into precedent, with the authority of silent acquiescence on the part of the Executive department; and to the end, also, that my motives and views in the Executive proceeding denounced in that resolution may be known to my fellow-citizens, to the world, and to all posterity, I respectfully request that this message and protest may be entered at length on the journals of the Senate."

No sooner was this Protest read in the Senate than it gave rise to a scene of the greatest excitement. Mr. Poindexter, of Mississippi, immediately assailed it as a breach of the privileges of the Senate, and unfit to be received by the body. He said: "I will not dignify this paper by considering it in the light of an Executive message: it is no such thing. I regard it simply as a paper, with the signature of Andrew Jackson; and, should the Senate refuse to receive it, it will not be the first paper with the same signature which has been refused a hearing in this body, on the ground of the abusive and vituperative language which it contained. This effort to denounce and overawe the deliberations of the Senate may properly be regarded as capping the climax of that systematic plan of operations which had for several years been in progress,

designed to bring this body into disrepute among the people, and thereby remove the only existing barrier to the arbitrary encroachments and usurpations of Executive power:"—and he moved that the paper, as he called it, should not be received. Mr. Benton deemed this a proper occasion to give notice of his intention to move a strong measure which he contemplated—an expunging resolution against the sentence of the Senate:—a determination to which he had come from his own convictions of right, and which he now announced without consultation with any of his friends. He deemed this movement too bold to be submitted to a council of friends—too daring to expect their concurrence;—and believed it was better to proceed without their knowledge, than against their decision. He, therefore, delivered his notice *ex abruptu*, accompanied by an earnest invective against the conduct of the Senate; and committed himself irrevocably to the prosecution of the "expunging resolution" until he should succeed in the effort, or terminate his political life: He said:

"The public mind was now to be occupied with a question of the very first moment and importance, and identical in all its features with the great question growing out of the famous resolutions of the English House of Commons in the case of the Middlesex election in the year 1768; and which engrossed the attention of the British empire for fourteen years before it was settled. That question was one in which the House of Commons was judged, and condemned, for adopting a resolution which was held by the subjects of the British crown to be a violation of their constitution, and a subversion of the rights of Englishmen: the question now before the Senate, and which will go before the American people, grows out of a resolution in which he (Mr. B.) believed that the constitution had been violated—the privileges of the House of Representatives invaded—and the rights of an American citizen, in the person of the President, subverted. The resolution of the House of Commons, after fourteen years of annual motions, was expunged from the Journal of the House; and he pledged himself to the American people to commence a similar series of motions with respect to this resolution of the Senate. He had made up his mind to do so without consultation with any human being, and without deigning to calculate the chances or the time of success. He rested under the firm conviction that the resolution of the Senate, which had drawn from the President the calm, temperate, and dignified protest, which had been read at the table, was a resolution which ought to be expunged from the Journal of the Senate; and if any thing was necessary to stimulate his sense of duty in making a motion to that effect, and in encouraging others after he was gone, in following up that motion to success, it would be found in the history and termination of the similar motion which was made in the English House of Commons to which he had referred. That motion was renewed for fourteen years—from 1768 to 1782—before it was successful. For the first seven years, the lofty and indignant majority did not condescend to reply to the motion. They sunk it under a dead vote as often as presented. The second seven years they replied; and at the end of the term, and on the assembling of a new Parliament, the veteran motion was carried by more than two to one; and the gratifying spectacle was beheld of a public expurgation, in the face of the assembled Commons of England, of the obnoxious resolution from the Journal of the House. The elections in England were septennial, and it took two terms of seven years, or two general elections, to bring the sense of the kingdom to bear upon their representatives. The elections of the Senate were sexennial, with intercalary exits and entrances, and it might take a less, or a longer period, he would not presume to say which, to bring the sense of the American people to bear upon an act of the American Senate. Of that, he would make no calculation; but the final success of the motion in the English House of Commons, after fourteen years' perseverance, was a sufficient encouragement for him to begin, and doubtless would encourage others to continue, until the good work should be crowned with success; and the only atonement made which it was in the Senate's power to make, to the violated majesty of the constitution, the invaded privileges of the House of Representatives and the subverted rights of an American citizen

"In bringing this great question before the American people, Mr. B. should consider himself as addressing the calm intelligence of an enlightened community. He believed the body of the American people to be the most enlightened community upon earth; and, without the least disparagement to the present Senate, he must be permitted to believe that many such Senates might be drawn from the ranks of the people, and still leave no dearth of intelligence behind. To such a community—in an appeal, on a great question of constitutional law, to the understandings of such a people—declamation, passion, epithets, opprobrious language, would stand for nothing. They would float, harmless and unheeded, through the empty air, and strike in vain upon the ear of a sober and dispassionate tribunal. Indignation, real or affected; wrath, however hot; fury, however enraged; asseverations, however violent; denunciation, however furious; will avail nothing. Facts—inexorable facts—are all that will be attended to; reason, calm and self-possessed, is all that will be listened to. An intelligent tribunal will exact the respect of an address to their understandings; and he that wishes to be heard in this great

question, or being heard, would wish to be heeded, will have occasion to be clear and correct in his facts; close and perspicuous in his application of law; fair and candid in his conclusions and inferences; temperate and decorous in his language; and scrupulously free from every taint of vengeance and malice. Solemnly impressed with the truth of all these convictions, it was the intention of himself (Mr. B.), whatever the example or the provocation might be—never to forget his place, his subject, his audience, and his object—never to forget that he was speaking in the American Senate, on a question of violated constitution and outraged individual right, to an audience comprehending the whole body of the American people, and for the purpose of obtaining a righteous decision from the calm and sober judgment of a high-minded, intelligent, and patriotic community.

"The question immediately before the Senate was one of minor consequence; it might be called a question of small import, except for the effect which the decision might have upon the Senate itself. In that point of view, it might be a question of some moment; for, without reference to individuals, it was essential to the cause of free governments, that every department of the government, the Senate inclusive, should so act as to preserve to itself the respect and the confidence of the country. The immediate question was, upon the rejection of the President's message. It was moved to reject it—to reject it, not after it was considered, but before it was considered! and thus to tell the American people that their President shall not be heard—should not be allowed to plead his defence—in the presence of the body that condemned him—neither before the condemnation, nor after it! This is the motion: and certainly no enemy to the Senate could wish it to miscarry. The President, in the conclusion of his message, has respectfully requested that his defence might be entered upon the Journal of the Senate—upon that same Journal which contains the record of his conviction. This is the request of the President. Will the Senate deny it? Will they refuse this act of sheer justice and common decency? Will they go further, and not only refuse to place it on the Journal, but refuse even to suffer it to remain in the Senate? Will they refuse to permit it to remain on file, but send it back, or throw it out of doors, without condescending to reply to it? For that is the exact import of the motion now made! Will senators exhaust their minds, and their bodies also, in loading this very communication with epithets, and then say that it shall not be received? Will they receive memorials, resolutions, essays, from all that choose to abuse the President, and not receive a word of defence from him? Will they continue the spectacle which had been presented here for three months—a daily presentation of attacks upon the President from all that choose to attack him, young and old, boys and men—attacks echoing the very sound of this resolution, and which are not only received and filed here, but printed, which, possibly, the twenty-six could not unite here, nor go to trial upon any where! He remarked, in the third place, upon the effect produced in the character of the resolution, and affirmed that it was nothing. He said that the same charge ran through all three. They all three imputed to the President a violation of the constitution and laws of the country—of that constitution which he was sworn to support, and of those laws which he was not only bound to observe himself, but to cause to be faithfully observed by all others.

"A violation of the constitution and of the laws, Mr. B. said, were not abstractions and metaphysical subtleties. They must relate to persons or things. The violations cannot rest in the air; they must affix themselves to men or to property; they must connect themselves with the transactions of real life. They cannot be ideal and contemplative. In omitting the specifications relative to the dismission of one Secretary of the Treasury, and the appointment of another, what other specifications were adopted or substituted? Certainly none! What others were mentally intended? Surely none! What others were suggested? Certainly none! The general charge then rests upon the same specification; and so completely is this the fact, that no supporter of the resolutions has thought it necessary to make the least alteration in his speeches which supported the original resolution, or to say a single additional word in favor of the altered resolution as finally passed. The omission of the specification is then an omission of form and not of substance; it is a change of words and not of things; and the substitution of a derogation of the laws and constitution, for dangerous to the liberties of the people, is a still more flagrant instance of change of words without change of things. It is tautologous and nonsensical. It adds nothing to the general charge, and takes nothing from it. It neither explains it nor qualifies it. In the technical sense it is absurd; for it is not the case of a statute in derogation of the common law, to wit, repealing a part of it; in the common parlance understanding, it is ridiculous, for the President is not even charged with defaming the constitution and the laws; and, if he was so charged, it would present a curious trial of *scandalum magnatum* for the American Senate to engage in. No! said Mr. B., this derogation clause is an expletion! It is put in to fill up! The regular impeaching clause of dangerous to the liberties of the people, had to be taken out. There was danger, not in the people certainly, but to the character of the resolution, if it staid in. It identified that resolution as an impeachment, and, therefore, constituted a piece of internal evidence which it was necessary to withdraw; but in withdrawing which, the character of the resolution was not altered. The

charge for violating the laws and the constitution still stood; and the substituted clause was nothing but a stopper to a vacuum—additional sound without additional sense, to fill up a blank and round off a sentence.

"After showing the impeaching character of the Senate's resolution, from its own internal evidence, Mr. B. had recourse to another description of evidence, scarcely inferior to the resolutions themselves, in the authentic interpretations of their meaning. He alluded to the speeches made in support of them, and which had resounded in this chamber for three months, and were now circulating all over the country in every variety of newspaper and pamphlet form. These speeches were made by the friends of the resolution to procure its adoption here, and to justify its adoption before the country. Let the country then read, let the people read, what has been sent to them for the purpose of justifying these resolutions which they are now to try! They will find them to be in the character of prosecution pleadings against an accused man, on his trial for the commission of great crimes! Let them look over these speeches, and mark the passages; they will find language ransacked, history rummaged, to find words sufficiently strong, and examples sufficiently odious, to paint and exemplify the enormity of the crime of which the President was alleged to be guilty. After reading these passages, let any one doubt, if he can, as to the character of the resolution which was adopted. Let him doubt, if he can, of the impeachable nature of the offence which was charged upon the President. Let him doubt, if he can, that every Senator who voted for that resolution, voted the President to be guilty of an impeachable offence—an offence, for the trial of which this Senate is the appointed tribunal—an offence which it will be the immediate duty of the House of Representatives to bring before the Senate, in a formal impeachment, unless they disbelieve in the truth and justice of the resolution which has been adopted.

"Mr. B. said there were three characters in which the Senate could act; and every time it acted it necessarily did so in one or the other of these characters. It possessed executive, legislative, and judicial characters. As a part of the executive, it acted on treaties and nominations to office; as a part of the legislative, it assisted in making laws; as a judicial tribunal, it decided impeachments. Now, in which of these characters did the Senate act when it adopted the resolution in question? Not in its executive character, it will be admitted; not in its legislative character, it will be proved: for the resolution was, in its nature, wholly foreign to legislation. It was directed, not to the formation of a law, but to the condemnation of the President. It was to condemn him for dismissing one Secretary, because he would not do a thing, and appointing another that he might do it; and certainly this was not matter for legislation; for Mr. Duane could not be restored by law, nor Mr. Taney be put out by law. It was to convict the President of violating the constitution and the laws; and surely these infractions are not to be amended by laws, but avenged by trial and punishment. The very nature of the resolution proves it to be foreign to all legislation; its form proves the same thing; for it is not joint, to require the action of the House of Representatives, and thus ripen into law; nor is it followed by an instruction to a committee to report a bill in conformity to it. No such instruction could even now be added without committing an absurdity of the most ridiculous character. There was another resolution, with which this must not be confounded, and upon which an instruction to a committee might have been bottomed; it was the resolution which declared the Secretary's reasons for removing the deposits to be insufficient and unsatisfactory; but no such instruction has been bottomed even upon that resolution; so that it is evident that no legislation of any kind was intended to follow either resolution, even that to which legislation might have been appropriate, much less that to which it would have been an absurdity. Four months have elapsed since the resolutions were brought in. In all that time, there has been no attempt to found a legislative act upon either of them; and it is too late now to assume that the one which, in its nature and in its form, is wholly foreign to legislation, is a legislative act, and adopted by the Senate in its legislative character. No! This resolution is judicial; it is a judgment pronounced upon an imputed offence; it is the declared sense of a majority of the Senate, of the guilt of the President of a high crime and misdemeanor. It is, in substance, an impeachment—an impeachment in violation of all the forms prescribed by the constitution—in violation of the privileges of the House of Representatives—in subversion of the rights of the accused, and the record of which ought to be expunged from the Journal of the Senate.

"Mr. B. said the selection of a tribunal for the trial of impeachments was felt, by the convention which framed the constitution, as one of the most delicate and difficult tasks which they had to perform. Those great men were well read in history, both ancient and modern, and knew that the impeaching power—the usual mode for trying political men for political offences—was often an engine for the gratification of factious and ambitious feelings. An impeachment was well known to be the beaten road for running down a hated or successful political rival. After great deliberation—after weighing all the tribunals, even that of the Supreme Court—the Senate of the United States was fixed upon as the body which, from its constitution, would be the most impartial, neutral, and equitable, that could be selected, and, with the check of a previous inquisition, and presentment of charges by the House of Representa-

tives, would be the safest tribunal to which could be confided a power so great in itself, and so susceptible of being abused. The Senate was selected; and to show that he had not overstated the difficulties of the convention in making the selection, he would take leave to read a passage from a work which was canonical on this subject, and from an article in that work which was written by the gentleman whose authority would have most weight on this occasion. He spoke of the Federalist, and of the article written by General Hamilton on the impeaching power:

"'A well-constituted court for the trial of impeachments is an object not more to be desired than difficult to be obtained, in a government wholly elective. The subjects of its jurisdiction are those offences which proceed from the misconduct of public men; or, in other words, from the abuse or violation of some public trust. They are of a nature which may, with peculiar propriety, be denominated political, as they relate chiefly to injuries done immediately to society itself. The prosecution of them, for this reason, will seldom fail to agitate the passions of the whole community, and to divide it into parties more or less friendly or inimical to the accused. In many cases, it will connect itself with the pre-existing factions, and will enlist all their animosities, partialities, influence, and interest, on one side or on the other; and, in such cases, there will always be the greatest danger that the decision will be regulated more by the comparative strength of parties, than by the real demonstrations of innocence or guilt. The delicacy and magnitude of a trust which so deeply concerns the political reputation and existence of every man engaged in the administration of public affairs, speak for themselves. The difficulty of placing it rightly in a government resting entirely on the basis of periodical elections, will as readily be perceived, when it is considered that the most conspicuous characters in it will, from that circumstance, be too often the leaders or the tools of the most cunning or the most numerous faction; and, on this account, can hardly be expected to possess the requisite neutrality towards those whose conduct may be the subject of scrutiny.

"'The division of the powers of impeachment between the two branches of the legislature, assigning to one the right of accusing, to the other the right of trying, avoids the inconvenience of making the same persons both accusers and judges; and guards against the danger of persecution from the prevalency of a factious spirit in either of those branches.'

"Mr. B. said there was much matter for elucidation of the present object of discussion in the extract which he had read. Its definition of an impeachable offence covered the indentical charge which was contained in the resolution adopted by the Senate against the President. The offence charged upon him possessed every feature of the impeachment defined by General Hamilton. It imputes misconduct to a public man, for the abuse and violation of a public trust. The discussion of the charge has agitated the passions of the whole community; it has divided the people into parties, some friendly, some inimical, to the accused; it has connected itself with the pre-existing parties, enlisting the whole of the opposition parties under one banner, and calling forth all their animosities—all their partialities—all their influence—all their interest; and, what was not foreseen by General Hamilton, it has called forth the tremendous moneyed power, and the pervading organization of a great moneyed power, wielding a mass of forty millions of money, and sixty millions of debt; wielding the whole in aid and support of this charge upon the President, and working the double battery of seduction, on one hand, and oppression on the other, to put down the man against whom it is directed! This is what General Hamilton did not foresee; but the next feature in the picture he did foresee, and most accurately describe, as it is now seen by us all. He said that the decision of these impeachments would ofter be regulated more by the comparative strength of parties than by the guilt or innocence of the accused. How prophetic! Look to the memorials, resolutions, and petitions, sent in here to criminate the President, so clearly marked by a party line, that when an exception occurs, it is made the special subject of public remark. Look at the vote in the Senate, upon the adoption of the resolution, also as clearly defined by a party line as any party question can ever be expected to be.

"To guard the most conspicuous characters from being persecuted—Mr. B. said he was using the language of General Hamilton—to guard the most conspicuous characters from being persecuted by the leaders or the tools of the most cunning or the most numerous faction—the convention had placed the power of trying impeachments, not in the Supreme Court, not even in a body of select judges chosen for the occasion, but in the Senate of the United States, and not even in them without an intervening check to the abuse of that power, by associating the House of Representatives, and forbidding the Senate to proceed against any officer until that grand inquest of the nation should demand his trial. How far fortunate, or otherwise, the convention may have been in the selection of its tribunal for the trial of impeachments, it was not for him, Mr. B., to say. It was not for him to say how far the requisite neutrality towards those whose conduct may be under scrutiny, may be found, or has been found, in this body. But he must take leave to say, that if a public man may be virtually impeached—actually condemned by the Senate of an impeachable offence, without the intervention of the House of Representatives, then has the constitution failed at one of its most vital points and a ready means found for doing a thing which had filled other countries with persecu

tion, faction, and violence, and which it was intended should never be done here.

"Mr. B. called upon the Senate to recollect what was the feature in the famous court of the Star Chamber, which rendered that court the most odious that ever sat in England. It was not the mass of its enormities—great as they were—for the regular tribunals which yet existed, exceeded that court, both in the mass and in the atrocity of their crimes and oppressions. The regular courts in the compass of a single reign—that of James the Second; a single judge in a single riding—Jeffries, on the Western Circuit—surpassed all the enormities of the Star Chamber, in the whole course of its existence. What then rendered that court so intolerably odious to the English people? Sir, said Mr. B., it was because that court had no grand jury—because it proceeded without presentment, without indictment—upon information alone—and thus got at its victims without the intervention, without the restraint, of an accusing body. This is the feature which sunk the Star Chamber in England. It is the feature which no criminal tribunal in this America is allowed to possess. The most inconsiderable offender, in any State of the Union, must be charged by a grand jury before he can be tried by the court. In this Senate, sitting as a high court of impeachment, a charge must first be presented by the House of Representatives, sitting as the grand inquest of the nation. But if the Senate can proceed, without the intervention of this grand inquest, wherein is it to differ from the Star Chamber, except in the mere execution of its decrees? And what other execution is now required for delinquent public men, than the force of public opinion? No! said Mr. B., we live in an age when public opinion over public men, is omnipotent and irreversible!—when public sentiment annihilates a public man more effectually than the scaffold. To this new and omnipotent tribunal, all the public men of Europe and America are now happily subject. The fiat of public opinion has superseded the axe of the executioner. Struck by that opinion, kings and emperors in Europe, and the highest functionaries among ourselves, fall powerless from the political stage, and wander, while their bodies live, as shadows and phantoms over the land. Should he give examples? It might be invidious; yet all would recollect an eminent example of a citizen, once sitting at the head of this Senate, afterwards falling under a judicial prosecution, from which he escaped untouched by the sword of the law, yet that eminent citizen was more utterly annihilated by public opinion, than any execution of a capital sentence could ever have accomplished upon his name.

"What occasion then has the Senate, sitting as a court of impeachment, for the power of execution? The only effect of a regular impeachment now, is to remove from office, and disqualification for office. An irregular impeachment will be tantamount to removal and disqualification, if the justice of the sentence is confided in by the people. If this condemnation of the President had been pronounced in the first term of his administration, and the people had believed in the truth and justice of the sentence, certainly President Jackson would not have been elected a second time; and every object that a political rival, or a political party, could have wished from his removal from office, and disqualification for office, would have been accomplished. Disqualification for office—loss of public favor—political death—is now the object of political rivalship; and all this can be accomplished by an informal, as well as by a formal impeachment, if the sentence is only confided in by the people. If the people believed that the President has violated the constitution and the laws, he ceases to be the object of their respect and their confidence; he loses their favor; he dies a political death; and that this might be the object of the resolution, Mr. B. would leave to the determination of those who should read the speeches which were delivered in support of the measure, and which would constitute a public and lasting monument of the temper in which the resolution was presented, and the object intended to be accomplished by it.

"It was in vain to say there could be no object, at this time, in annihilating the political influence of President Jackson, and killing him off as a public man, with a senatorial conviction for violating the laws and constitution of the country. Such an assertion, if ventured upon by any one, would stand contradicted by facts, of which Europe and America are witnesses. Does he not stand between the country and the bank? Is he not proclaimed the sole obstacle to the recharter of the bank; and in its recharter is there not wrapped up the destinies of a political party, now panting for power? Remove this sole obstacle—annihilate its influence—kill off President Jackson with a sentence of condemnation for a high crime and misdemeanor, and the charter of the bank will be renewed, and in its renewal, a political party, now thundering at the gates of the capitol, will leap into power. Here then is an object for desiring the extinction of the political influence of President Jackson! An object large enough to be seen by all America! and attractive enough to enlist the combined interest of a great moneyed power, and of a great political party."

Thus spoke Mr. Benton; but the debate on the protest went on; and the motion of Mr. Poindexter, digested into four different propositions, after undergoing repeated modifications upon consultations among its friends, and after much acrimony on both sides, was adopted by the fixed majority of twenty-seven. In voting that the protest was a breach of the privileges

of the Senate, that body virtually affirmed the impeachment character of the condemnatory resolutions, and involved itself in the predicament of voting an impeachable matter without observing a single rule for the conduct of impeachments. The protest placed it in a dilemma. It averred the Senate's judgment to be without authority—without any warrant in the constitution—any right in the body to pronounce it. To receive that protest, and enter it on the journal, was to record a strong evidence against themselves; to reject it as a breach of privilege was to claim for their proceeding the immunity of a regular and constitutional act; and as the proceeding was on criminal matter, amounting to a high crime and misdemeanor, on which matter the Senate could only act in its judicial capacity; therefore it had to claim the immunity that would belong to it in that capacity; and assume a violation of privilege. Certainly if the Senate had tried an impeachment in due form, the protest, impeaching its justice, might have been a breach of privilege; but the Senate had no privilege to vote an impeachable matter without a regular impeachment; and therefore it was no breach of privilege to impugn the act which they had no privilege to commit.

CHAPTER CIV.

MR. WEBSTER'S PLAN OF RELIEF.

It has already been seen that Mr. Webster took no direct part in promoting the adoption of the resolutions against General Jackson. He had no private grief to incite him against the President; and, as first drawn up, it would have been impossible for him, honored with the titles of "expounder and defender of the constitution," to have supported the resolve: bearing plainly on its face impeachable matter. After several modifications, he voted for it; but, from the beginning, he had his own plan in view, which was entirely different from an attack on the President; and solely looked to the advantage of the bank, and the relief of the distress, in a practical and parliamentary mode of legislation. He looked to a renewal of the bank charter for a short term, and with such modifications as would tend to disarm opposition, and to conciliate favor for it. The term of the renewal was only to be for six years: a length of time well chosen; because, from the shortness of the period, it would have an attraction for all that class of members—always more or less numerous in every assembly—who, in every difficulty, are disposed to temporize and compromise; while, to the bank, in carrying its existence beyond the presidential term of General Jackson, it felt secure in the future acquisition of a full term. Besides the attraction in the short period, Mr. Webster proposed another amelioration, calculated to have serious effect; it was to give up the exclusive or monopoly feature in the charter—leaving to Congress to grant any other charter, in the mean time, to a new company, if it pleased. The objectionable branch bank currency of petty drafts was also given up. Besides this, and as an understanding that the corporation would not attempt to obtain a further existence beyond the six years, the directors were to be at liberty to begin to return the capital to the stockholders at any time within the period of three years, before the expiration of the six renewed years The deposits were not to be restored until after the first day of July; and, as an agreeable concession to the enemies of small paper currency the bank was to issue, or use, no note under the amount of twenty dollars. He had drawn up a bill with these provisions, and asked leave to bring it in; and, asking the leave, made a very plausible business speech in its favor: the best perhaps that could have been devised. In addition to his own weight, and the recommendations in the bill, it was understood to be the preference of Mr. Biddle himself—his own choice of remedies in the difficulties which surrounded his institution. But he met opposition from quarters not to be expected: from Mr. Clay, who went for the full term of twenty years; and Mr. Calhoun, who went for twelve. It was difficult to comprehend why these two gentlemen should wish to procure for the bank more than it asked, and which it was manifestly impossible for it to gain. Mr. Webster's bill was the only one that stood the least chance of getting through the two Houses; and on that point he had private assurances of support from friends of the administration, if all the friends of the bank stood firm. In favoring this charter for

twelve years, Mr. Calhoun felt that an explanation of his conduct was due to the public, as he was well known to have been opposed to the renewed charter, when so vehemently attempted, in 1832; and also against banks generally. His explanation was, that he considered it a currency question, and a question between the national and local banks; and that the renewed charter was to operate against them; and, in winding itself up, was to cease for ever, having first established a safe currency. His frequent expression was, that his plan was to "unbank the banks:" a process not very intelligibly explained at the time, and on which he should be allowed to speak for himself. Some passages are, therefore, given from his speech:

"After a full survey of the whole subject, I can see no means of extricating the country from its present danger, and to arrest its further increase, but a bank, the agency of which, in some form, or under some authority, is indispensable. The country has been brought into the present diseased state of the currency by banks, and must be extricated by their agency. We must, in a word, use a bank to unbank the banks, to the extent that may be necessary to restore a safe and stable currency—just as we apply snow to a frozen limb, in order to restore vitality and circulation, or hold up a burn to the flame to extract the inflammation. All must see that it is impossible to suppress the banking system at once. It must continue for a time. Its greatest enemies, and the advocates of an exclusive specie circulation, must make it a part of their system to tolerate the banks for a longer or a shorter period. To suppress them at once, would, if it were possible, work a greater revolution: a greater change in the relative condition of the various classes of the community than would the conquest of the country by a savage enemy. What, then, must be done? I answer, a new and safe system must gradually grow up under, and replace, the old; imitating, in this respect, the beautiful process which we sometimes see, of a wounded or diseased part in a living organic body, gradually superseded by the healing process of nature.

"How is this to be effected? How is a bank to be used as the means of correcting the excess of the banking system? And what bank is to be selected as the agent to effect this salutary change? I know, said Mr. C., that a diversity of opinion will be found to exist, as to the agent to be selected, among those who agree on every other point, and who, in particular, agree on the necessity of using some bank as the means of effecting the object intended; one preferring a simple recharter of the existing bank—another, the charter of a new bank of the United States—a third, a new bank ingrafted upon the old—and a fourth, the use of the State banks, as the agent. I wish, said Mr. C., to leave all these as open questions, to be carefully surveyed and compared with each other, calmly and dispassionately, without prejudice or party feeling; and that to be selected which, on the whole, shall appear to be best—the most safe; the most efficient; the most prompt in application, and the least liable to constitutional objection. It would, however, be wanting in candor on my part, not to declare that my impression is, that a new Bank of the United States, ingrafted upon the old, will be found, under all the circumstances of the case, to combine the greatest advantages, and to be liable to the fewest objections; but this impression is not so firmly fixed as to be inconsistent with a calm review of the whole ground, or to prevent my yielding to the conviction of reason, should the result of such review prove that any other is preferable. Among its peculiar recommendations, may be ranked the consideration, that, while it would afford the means of a prompt and effectual application for mitigating and finally removing the existing distress, it would, at the same time, open to the whole community a fair opportunity of participation in the advantages of the institution, be they what they may.

"Let us then suppose (in order to illustrate and not to indicate a perference) that the present bank be selected as the agent to effect the intended object. What provisions will be necessary? I will suggest those that have occurred to me, mainly, however, with a view of exciting the reflection of those much more familiar with banking operations than myself, and who, of course, are more competent to form a correct judgment on their practical effect.

"Let, then, the bank charter be renewed for twelve years after the expiration of the present term, with such modifications and limitations as may be judged proper, and that after that period, it shall issue no notes under ten dollars; that government shall not receive in its dues any sum less than ten dollars, except in the legal coins of the United States; that it shall not receive in its dues the notes of any bank that issues notes of a denomination less than five dollars; and that the United States Bank shall not receive in payment, or on deposit, the notes of any bank whose notes are not receivable in dues of the government; nor the notes of any bank which may receive the notes of any bank whose notes are not receivable by the government. At the expiration of six years from the commencement of the renewed charter, let the bank be prohibited from issuing any note under twenty dollars, and let no sum under that amount be received in the dues of the government, except in specie; and let the value of gold be raised at least equal to that of silver, to take effect immediately, so that the country may be replenished with the coin, the lightest and the most portable in proportion to its value, to take the place of the receding bank notes

It is unnecessary for me to state, that at present, the standard value of gold is several per cent. less than that of silver, the necessary effect of which has been to expel gold entirely from our circulation, and thus to deprive us of a coin so well calculated for the circulation of a country so great in extent, and having so vast an intercourse, commercial, social, and political, between all its parts, as ours. As an additional recommendation to raise its relative value, gold has, of late, become an important product of three considerable States of the Union, Virginia, North Carolina, and Georgia—to the industry of which, the measure proposed would give a strong impulse, and which in turn would greatly increase the quantity produced.

"Such are the means which have occurred to me. There are members of this body far more competent to judge of their practical operation than myself, and as my object is simply to suggest them for their reflection, and for that of others who are more familiar with this part of the subject, I will not at present enter into an inquiry as to their efficiency, with a view of determining whether they are fully adequate to effect the object in view or not. There are doubtless others of a similar description, and perhaps more efficacious, that may occur to the experienced, which I would freely embrace, as my object is to adopt the best and most efficient. And it may be hoped that, if on experience it should be found that neither these provisions nor any other in the power of Congress, are fully adequate to effect the important reform which I have proposed, the co-operation of the States may be afforded, at least to the extent of suppressing the circulation of notes under five dollars, where such are permitted to be issued under their authority."

The ultimate object proposed to be accomplished by Mr. Calhoun in this process of "unbanking the banks," was to arrive eventually and by slow degrees, at a metallic currency, and the revival of gold. This had been my object, and so declared in the Senate, from the time of the first opposition to the United States Bank. He had talked his plan over to myself and others: we had talked over ours to him. There was a point at which we all agreed—the restoration of a metallic currency; but differed about the means—he expecting to attain it slowly and eventually, through the process which he mentioned; and we immediately, through the revival of the gold currency, the extinction of the Bank of the United States, the establishment of an independent treasury, and the exclusion of all paper money from the federal receipts and payments. Laying hold of the point on which we agreed, (and which was also the known policy of the President), Mr. Calhoun appealed to Mr. Silas Wright and myself and other friends of the administration, to support his plan. He said:

"If I understand their views, as expressed by the senator from Missouri, behind me (Mr. Benton)—the senator from New-York (Mr. Wright); and other distinguished members of the party, and the views of the President, as expressed in reported conversations, I see not how they can reject the measure (*to wit:* his plan). They profess to be the advocates of a metallic currency. I propose to restore it by the most effectual measures that can be devised, gradually and slowly, and to the extent that experience may show that it can be done consistently with due regard to the public interest. Further, no one can desire to go."

The reference here made by Mr. Calhoun to the views of the senator from Missouri was to conversations held between them; in which each freely communicated his own plan. Mr. Benton had not then brought forward his proposition for the revival of the gold currency; but did so, (in a speech which he had studied), the moment Mr. Calhoun concluded. That was a thing understood between them. Mr. Calhoun had signified his wish to speak first; to which Mr. Benton readily assented: and both took the opportunity presented by Mr. Webster's motion, and the presentation of his plan, to present their own respectively. Mr. Benton presented his the moment Mr. Calhoun sat down, in a much considered speech, which will be given in the next chapter; and which was the first of his formal speeches in favor of reviving the gold currency. In the mean time, Mr. Webster's plan lingered on the motion for leave to bring in his bill. That leave was not granted. Things took a strange turn. The friends of the bank refused in a body to give Mr. Webster the leave asked: the enemies of the bank were in favor of giving him the leave—chiefly, perhaps, because his friends refused it. In this state of contrariety among his friends, Mr. Webster moved to lay his own motion on the table; and Mr. Forsyth, to show that this balk came from his own side of the chamber, asked the yeas and nays; which were granted and were as follows:

"YEAS.—Messrs Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Hendricks, King of Georgia, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Sils-

bee, Smith, Southard, Sprague, Swift, Tomlinson, Waggaman, Webster.

"NAYS.—Messrs. Benton, Brown, Forsyth, Grundy, Hill, Kane, King of Alabama, Morris, Robinson, Shepley, Tallmadge, Tipton, White, Wilkins, Wright."

The excuse for the movement—for this unexpected termination to Mr. Webster's motion—was that the Senate might proceed with Mr. Clay's resolution against General Jackson, and come to a conclusion upon it. It was now time for that conclusion. It was near the last of March, and the Virginia elections came on in April: but the real cause for Mr. Webster's motion was the settled opposition of his political friends to his plan; and that was proved by its subsequent fate. In his motion to lay his application on the table, he treated it as a temporary disposition of it—the application to be renewed at some future time: which it never was.

CHAPTER CV.

REVIVAL OF THE GOLD CURRENCY—MR. BENTON'S SPEECH.

MR. BENTON said it was now six years since he had begun to oppose the renewal of the charter of this bank, but he had not, until the present moment, found a suitable occasion for showing the people the kind of currency which they were entitled to possess, and probably would possess, on the dissolution of the Bank of the United States. This was a view of the subject which many wished to see, and which he felt bound to give; and which he should proceed to present, with all the brevity and perspicuity of which he was master.

1. In the first place, he was one of those who believed that the government of the United States was intended to be a hard money government: that it was the intention, and the declaration of the constitution of the United States, that the federal currency should consist of gold and silver; and that there is no power in Congress to issue, or to authorize any company of individuals to issue, any species of federal paper currency whatsoever.

Every clause in the constitution, said Mr. B., which bears upon the subject of money—every early statute of Congress which interprets the meaning of these clauses—and every historic recollection which refers to them, go hand in hand, in giving to that instrument the meaning which this proposition ascribes to it. The power granted to Congress to coin money is an authority to stamp metallic money, and is not an authority for emitting slips of paper containing promises to pay money. The authority granted to Congress to regulate the value of coin, is an authority to regulate the value of the metallic money, not of paper. The prohibition upon the States against making any thing but gold and silver a legal tender, is a moral prohibition, founded in virtue and honesty, and is just as binding upon the federal government as upon the State governments; and that without a written prohibition; for the difference in the nature of the two governments is such, that the States may do all things which they are not forbid to do; and the federal government can do nothing which it is not authorized by the constitution to do. The power to punish the crime of counterfeiting is limited to the current coin of the United States, and to the securities of the United States; and cannot be extended to the offence of forging paper money, but by that unjustifiable power of construction which founds an implication upon an implication, and hangs one implied power upon another. The word currency is not in the constitution, nor any word which can be made to cover a circulation of bank notes. Gold and silver is the only thing recognized for money. It is the money, and the only money, of the constitution; and every historic recollection, as well as every phrase in the constitution, and every early statute on the subject of money, confirms that idea. People were sick of paper money about the time that this constitution was formed. The Congress of the confederation, in the time of the Revolution, had issued a currency of paper money. It had run the full career of that currency. The wreck of two hundred millions of paper dollars lay upon the land. The framers of that constitution worked in the midst of that wreck. They saw the havoc which paper money had made upon the fortunes of individuals, and the morals of the public. They determined to have no more federal paper money. They created a hard money government; they intended the new government to recognize no-

thing for money but gold and silver; and every word admitted into the constitution, upon the subject of money, defines and establishes that sacred intention.

Legislative enactment, continued Mr. B., came quickly to the aid of constitutional intention and historic recollection. The fifth statute passed at the first session of the first Congress that ever sat under the present constitution, was full and explicit on this head. It defined the kind of money which the federal treasury should receive. The enactments of the statute are remarkable for their brevity and comprehension, as well as for their clear interpretation of the constitution; and deserve to be repeated and remembered. They are: That the fees and duties payable to the federal government shall be received in gold and silver coin only; the gold coins of France, Spain, Portugal, and England, and all other gold coins of equal fineness, at eighty-nine cents for every pennyweight; the Mexican dollar at one hundred cents; the crown of France at one hundred and eleven cents; and all other silver coins of equal fineness, at one hundred and eleven cents per ounce. This statute was passed the 30th day of July, 1789—just one month after Congress had commenced the work of legislation. It shows the sense of the Congress composed of the men, in great part, who had framed the constitution, and who, by using the word only, clearly expressed their intention that gold and silver alone was to constitute the currency of the new government.

In support of this construction of the constition, Mr. B. referred to the phrase so often used by our most aged and eminent statesmen, that this was intended to be a hard money government. Yes, said Mr. B., the framers of the constitution were hard money men; but the chief expounder and executor of that constitution was not a hard money man, but a paper system man! a man devoted to the paper system of England, with all the firmness of conviction, and all the fervor of enthusiasm. God forbid, said Mr. B., that I should do injustice to Gen. Hamilton—that I should say, or insinuate, aught to derogate from the just fame of that great man! He has many titles to the gratitude and admiration of his countrymen, and the heart could not be American which could dishonor or disparage his memory. But his ideas of government did not receive the sanction of general approbation; and of all his political tenets, his attachment to the paper system was most strongly opposed at the time, and has produced the most lasting and deplorable results upon the country. In the year 1791, this great man, then Secretary of the Treasury, brought forward his celebrated plan for the support of public credit—that plan which unfolded the entire scheme of the paper system, and immediately developed the great political line between the federalists and the republicans. The establishment of a national bank was the leading and predominant feature of that plan; and the original report of the Secretary, in favor of establishing the bank, contained this fatal and deplorable recommendation:

"The bills and notes of the bank, originally made payable, or which shall have become payable, on demand, in gold and silver coin, shall be receivable in all payments to the United States."

This fatal recommendation became a clause in the charter of the bank. It was transferred from the report of the Secretary to the pages of the statute book; and from that moment the moneyed character of the federal government stood changed and reversed. Federal bank notes took the place of hard money; and the whole edifice of the new government slid, at once, from the solid rock of gold and silver money, on which its framers had placed it, into the troubled and tempestuous ocean of a paper currency.

Mr. B. said it was no answer to this most serious charge of having changed the moneyed character of the federal government, and of the whole Union, to say that the notes of the Bank of the United States are not made a legal tender between man and man. There was no necessity, he said, for a statute law to that effect; it was sufficient that they were made a legal tender to the federal government; the law of necessity, far superior to that of the statute book, would do the rest. A law of tender was not necessary; a forced, incidental tender, resulted as an inevitable consequence from the credit and circulation which the federal government gave them. Whatever was received at the custom-houses, at the land-offices, at the post-offices, at the marshals' and district attorneys' offices, and in all the various dues to the federal government, must be received and will be received by the people. It

becomes the actual and practical currency of the land. People must take it, or get nothing; and thus the federal government, establishing a paper currency for itself, establishes it also for the States and for the people; and every body must use it from necessity, whether compelled by law or not.

Mr. B. said it was not to be supposed that the objection which he now took to the unconstitutionality of the clause which made the notes of the federal bank a legal tender to the federal government, was an objection which could be overlooked, or disregarded, by the adversaries of the bank in 1791. It was not overlooked, or disregarded; on the contrary, it was denounced, and combated, as in itself a separate and distinct breach of the constitution, going the whole length of emitting paper money; and the more odious and reprehensible because a privileged company was to have the monopoly of the emission. The genius of Hamilton was put in requisition to answer this objection; and the best answer which that great man could give it, was a confession of the omnipotence of the objection, and the total impossibility of doing it away. His answer surrendered the whole question of a currency. It sunk the notes of the bank, which were then to be tendered to the federal government, to the condition of supplies furnished to the government, and to be consumed by it. The answer took refuge under the natural power, independent of all constitutions, for the tax receiver to receive his taxes in what articles he pleased. To do justice to General Hamilton, and to detect and expose the true character of this bank paper, Mr. B. read a clause from Gen. Hamilton's reply to the cabinet opinions of Mr. Jefferson, and the Attorney General Randolph, when President Washington had the charter of the first bank under advisement with his Secretaries. It was the clause in which General Hamilton replied to the objection to the constitutionality of making the notes of the bank receivable in payment of public dues. "To designate or appoint the money or thing in which taxes are to be paid, is not only a proper, but a necessary exercise of the power of collecting them. Accordingly, Congress, in the law concerning the collection of the duties, imposts, and tonnage, has provided that they shall be payable in gold and silver. But, while it was an indispensable part of the work to say in what they should be paid, the choice of the specific thing was a mere matter of discretion. The payment might have been required in the commodities themselves. Taxes in kind, however ill judged, are not without precedents, even in the United States; or it might have been in the paper money of the several States; or in the bills of the Bank of North America, New-York, and Massachusetts, all, or either of them; it might have been in bills issued under the authority of the United States. No part of this, it is presumed, can be disputed. The appointment of the money or thing in which the taxes are to be paid, is an incident of the power of collection. And among the expedients which may be adopted, is that of bills issued under the authority of the United States." Mr. B. would read no further, although the argument of General Hamilton extended through several pages. The nature of the argument is fully disclosed in what is read. It surrenders the whole question of a paper currency. Neither the power to furnish a currency, or to regulate currency, is pretended to be claimed. The notes of the new bank are put upon the footing, not of money, but of commodities—things—articles in kind—which the tax receiver may accept from the tax payer; and which are to be used and consumed by the tax receiver, and not to be returned to the people, much less to be diffused over the country in place of money. This is the original idea and conception of these notes. It is the idea under which they obtained the legal capacity of receivability in payment of public dues; and from this humble conception, this degraded assimilation to corn and grain, to clothes and provisions, they have, by virtue of that clause in the charter, crept up to the character of money—become the real, practical currency of the land—driven the currency of the constitution from the land—and so depraved the public intellect as now to be called for as money, and proclaimed to be indispensable to the country, when the author of the bank could not rank it higher than an expedient for paying a tax.

2. In the next place, Mr. B. believed that the quantity of specie derivable from foreign commerce, added to the quantity of gold derivable from our own mines, were fully sufficient, if not expelled from the country by unwise laws, to furnish the people with an abundant circulation of gold and silver coin, for their common cur-

rency, without having recourse to a circulation of small bank notes.

The truth of these propositions, Mr. B. held to be susceptible of complete and ready proof. He spoke first of the domestic supply of native gold, and said that no mines had ever developed more rapidly than these had done, or promised more abundantly than they now do. In the year 1824 they were a spot in the State of North Carolina; they are now a region spreading into six States. In the year 1824 the product was $5,000; in the last year the product, in coined gold, was $868,000; in uncoined, as much more; and the product of the present year computed at two millions; with every prospect of continued and permanent increase. The probability was that these mines alone, in the lapse of a few years, would furnish an abundant supply of gold to establish a plentiful circulation of that metal, if not expelled from the country by unwise laws. But the great source of supply, both for gold and silver, Mr. B. said, was in our foreign commerce. It was this foreign commerce which filled the States with hard money immediately after the close of the Revolutionary War, when the domestic mines were unknown; and it is the same foreign commerce which, even now, when federal laws discourage the importation of foreign coins and compel their exportation, is bringing in an annual supply of seven or eight millions. With an amendment of the laws which now discourage the importation of foreign coins, and compel their exportation, there could be no delay in the rapid accumulation of a sufficient stock of the precious metals to supply the largest circulation which the common business of the country could require.

Mr. B. believed the product of foreign mines, and the quantity of gold and silver now in existence, to be much greater than was commonly supposed; and, as a statement of its amount would establish his proposition in favor of an adequate supply of these metals for the common currency of the country, he would state that amount, as he found it calculated in approved works of political economy. He looked to the three great sources of supply: 1. Mexico and South America; 2. Europe and Northern Asia; 3. The coast of Africa. Taking the discovery of the New World as the starting point from which the calculation would commence, and the product was:

1. Mexico and South America, . . .	$6,458,000,000
2. Europe and Northern Asia, . . .	628,000,000
3. The coast of Africa, ...	150,000,000

—making a total product of seven thousand two hundred and thirty-six millions, in the short space of three centuries and a half. To this is to be added the quantity existing at the time the New World was discovered, and which was computed at $2,300,000,000. Upon all these data, the political economists, Mr. B. said, after deducting $2,000,000,000 for waste and consumption, still computed the actual stock of gold and silver in Europe, Asia, and America, in 1832, at about seven thousand millions of dollars; and that quantity constantly and rapidly increasing.

Mr. B. had no doubt but that the quantity of gold and silver in Europe, Asia, and America, was sufficient to carry on the whole business of the world. He said that states and empires —far greater in wealth and population than any now existing—far superior in public and private magnificence—had carried on all the business of private life, and all the affairs of national government, upon gold and silver alone; and that before the mines of Mexico and Peru were known, or dreamed of. He alluded to the great nations of antiquity—to the Assyrian and Persian empires; to Egypt, Carthage, Rome; to the Grecian republics; the kingdoms of Asia Minor; and to the empire, transcending all these put together—the Saracenic empire of the Caliphs, which, taking for its centre the eastern limit of the Roman world, extended its dominion as far west as Rome had conquered, and further east than Alexander had marched. These great nations, whose armies crushed empires at a blow, whose monumental edifices still attest their grandeur, had no idea of bank credits and paper money. They used gold and silver alone. Such degenerate phrases as sound currency, paper medium, circulating media, never once sounded in their heroic ears. But why go back, exclaimed Mr. B., to the nations of antiquity? Why quit our own day? Why look beyond the boundaries of Europe? We have seen an empire in our own day, of almost fabulous grandeur and magnificence, carrying on all its vast undertakings upon a currency of gold and silver, without deigning to recognize paper for money. I speak, said Mr. B., of France—great and imperial France—and have my eye upon that first year of the consu-

late, when a young and victorious general, just transferred from the camp to a council, announced to his astonished ministers that specie payments should commence in France by a given day !—in that France which, for so many years, had seen nothing but a miserable currency of depreciated mandats and assignats! The annunciation was heard with the inward contempt, and open distrust, which the whole tribe of hack politicians every where feel for the statesmanship of military men. It was followed by the success which it belongs to genius to inspire and to command. Specie payments commenced in France on the day named; and a hard money currency has been the sole currency of France from that day to this.

Such, said Mr. B., is the currency of France; a country whose taxes exceed a thousand millions of francs—whose public and private expenditures require a circulation of three hundred and fifty millions of dollars—and which possesses that circulation, every dollar of it, in gold and silver. After this example, can any one doubt the capacity of the United States to supply itself with specie? Reason and history forbid the doubt. Reason informs us that hard money flows into the vacuum the instant that small bank notes are driven out. France recovered a specie circulation within a year after the consular government refused to recognize paper for money. England recovered a gold circulation of about one hundred millions of dollars within four years after the one and two pound notes were suppressed. Our own country filled up with Spanish milled dollars, French crowns, doubloons, half joes, and guineas, as by magic, at the conclusion of the Revolutionary War, and the suppression of the continental bills. The business of the United States would not require above sixty or seventy millions of gold and silver for the common currency of the people, and the basis of large bank notes and bills of exchange. Of that sum, more than one third is now in the country, but not in circulation. The Bank of the United States hoards above ten millions. At the expiration of her charter, in 1836, that sum will be paid out in redemption of its notes—will go into the hands of the people—and, of itself, will nearly double the quantity of silver now in circulation. Our native mines will be yielding, annually, some millions of gold; foreign commerce will be pouring in her accustomed copious supply; the correction of the erroneous value of gold, the liberal admission of foreign coins, and the suppression of small notes, will invite and retain an adequate metallic currency. The present moment is peculiarly favorable for these measures. Foreign exchanges are now in our favor; silver is coming here, although not current by our laws; both gold and silver would flow in, and that immediately, to an immense amount, if raised to their proper value, and put on a proper footing, by our laws. Three days' legislation on these subjects would turn copious supplies of gold and silver into the country, diffuse them through every neighborhood, and astonish gentlemen when they get home at midsummer, at finding hard money where they had left paper.

3. In the third place, Mr. B. undertook to affirm, as a proposition free from dispute or contestation, that the value now set upon gold, by the laws of the United States, was unjust and erroneous; that these laws had expelled gold from circulation; and that it was the bounden duty of Congress to restore that coin to circulation, by restoring it to its just value.

That gold was undervalued by the laws of the United States, and expelled from circulation, was a fact, Mr. B. said, which every body knew; but there was something else which every body did not know; which few, in reality, had an opportunity of knowing, but which was necessary to be known, to enable the friends of gold to go to work at the right place to effect the recovery of that precious metal which their fathers once possessed—which the subjects of European kings now possess—which the citizens of the young republics to the South all possess—which even the free negroes of San Domingo possess—but which the yeomanry of this America have been deprived of for more than twenty years, and will be deprived of for ever, unless they discover the cause of the evil, and apply the remedy to its root.

I have already shown, said Mr. B., that the plan for the support of public credit which General Hamilton brought forward, in 1791, was a plan for the establishment of the paper system in our America. We had at that time a gold currency which was circulating freely and fully all over the country. Gold is the antagonist of paper, and, with fair play, will keep a paper currency within just and proper limits. It will

keep down the small notes; for, no man will carry a five, a ten, or a twenty dollar note in his pocket, when he can get guineas, eagles, half eagles, doubloons, and half joes to carry in their place. The notes of the new Bank of the United States, which bank formed the leading feature in the plan for the support of public credit, had already derived one undue advantage over gold, in being put on a level with it in point of legal tender to the federal government, and universal receivability in all payments to that government: they were now to derive another, and a still greater undue advantage over gold, in the law for the establishment of the national mint; an institution which also formed a feature of the plan for the support of public credit. It is to that plan that we trace the origin of the erroneous valuation of gold, which has banished that metal from the country. Mr. Secretary Hamilton, in his proposition for the establishment of a mint, recommended that the relative value of gold to silver should be fixed at fifteen for one; and that recommendation became the law of the land; and has remained so ever since. At the same time, the relative value of these metals in Spain and Portugal, and throughout their vast dominions in the new world, whence our principal supplies of gold were derived, was at the rate of sixteen for one; thus making our standard six per cent. below the standard of the countries which chiefly produced gold. It was also below the English standard, and the French standard, and below the standard which prevailed in these States, before the adoption of the constitution, and which was actually prevailing in the States, at the time that this new proportion of fifteen to one was established.

Mr. B. was ready to admit that there was some nicety requisite in adjusting the relative value of two different kinds of money—gold and silver for example—so as to preserve an exact equipoise between them, and to prevent either from expelling the other. There was some nicety, but no insuperable or even extraordinary difficulty, in making the adjustment. The nicety of the question was aggravated in the year '92, by the difficulty of obtaining exact knowledge of the relative value of these metals, at that time, in France and England; and Mr. Gallatin has since shown that the information which was then relied upon was clearly erroneous. The consequence of any mistake in fixing our standard, was also well known in the year '92. Mr. Secretary Hamilton, in his proposition for the establishment of a mint, expressly declared that the consequence of a mistake in the relative value of the two metals, would be the expulsion of the one that was undervalued. Mr. Jefferson, then Secretary of State, in his cotemporaneous report upon foreign coins, declared the same thing. Mr. Robert Morris, financier to the revolutionary government, in his proposal to establish a mint, in 1782, was equally explicit to the same effect. The delicacy of the question and the consequence of a mistake, were then fully understood forty years ago, when the relative value of gold and silver was fixed at fifteen to one. But, at that time, it unfortunately happened that the paper system, then omnipotent in England, was making its transit to our America; and every thing that would go to establish that system—every thing that would go to sustain the new-born Bank of the United States—that eldest daughter and *spem gregis* of the paper system in America—fell in with the prevailing current, and became incorporated in the federal legislation of the day. Gold, it was well known, was the antagonist of paper; from its intrinsic value, the natural predilection of all mankind for it, its small bulk, and the facility of carrying it about, it would be preferred to paper, either for travelling or keeping in the house; and thus would limit and circumscribe the general circulation of bank notes, and prevent all plea of necessity for issuing smaller notes. Silver, on the contrary, from its inconvenience of transportation, would favor the circulation of bank notes. Hence the birth of the doctrine, that if a mistake was to be committed, it should be on the side of silver! Mr. Secretary Hamilton declares the existence of this feeling when, in his report upon the establishment of a mint, he says: "It is sometimes observed, that silver ought to be encouraged, rather than gold, as being more conducive to the extension of bank circulation, from the greater difficulty and inconvenience which its greater bulk, compared with its value, occasions in the transportation of it." This passage in the Secretary's report, proves the existence of the feeling in favor of silver against gold, and the cause of that feeling. Quotations might be made from the speeches of others to show that they acted upon that feeling; but it is due to General Hamilton

to say that he disclaimed such a motive for himself, and expressed a desire to retain both metals in circulation, and even to have a gold dollar.

The proportion of fifteen to one was established. The 11th section of the act of April, 1792, enacted that every fifteen pounds weight of pure silver, should be equal in value, in all payments, with one pound of pure gold; and so in proportion for less quantities of the respective metals. This act was the death warrant to the gold currency. The diminished circulation of that coin soon began to be observable; but it was not immediately extinguished. Several circumstances delayed, but could not prevent that catastrophe. 1. The Bank of the United States then issued no note of less denomination than ten dollars, and but few of them. 2. There were but three other banks in the United States, and they issued but few small notes; so that a small note currency did not come directly into conflict with gold. 3. The trade to the lower Mississipi continued to bring up from Natchez and New Orleans, for many years, a large supply of doubloons; and long supplied a gold currency to the new States in the West. Thus, the absence of a small note currency, and the constant arrivals of doubloons from the lower Mississippi, deferred the fate of the gold currency; and it was not until the lapse of near twenty years after the adoption of the erroneous standard of 1792, that the circulation of that metal, both foreign and domestic, became completely and totally extinguished in the United States. The extinction is now complete, and must remain so until the laws are altered.

In making this annunciation, and in thus standing forward to expose the error, and to demand the reform of the gold currency, he (Mr. B.) was not setting up for the honors of a first discoverer, or first inventor. Far from it. He was treading in the steps of other, and abler men, who had gone before him. Four Secretaries of the Treasury, Gallatin, Dallas, Crawford, Ingham, had, each in their day, pointed out the error in the gold standard, and recommended its correction. Repeated reports of committees, in both Houses of Congress, had done the same thing. Of these reports he would name those of the late Mr. Lowndes of South Carolina; of Mr. Sanford, late a senator from New-York; of Mr. Campbell P. White, now a representative from the city of New-York. Mr. B. took pleasure in recalling and presenting to public notice, the names of the eminent men who had gone before him in the exploration of this path. It was due to them, now that the good cause seemed to be in the road to success, to yield to them all the honors of first explorers; it was due to the cause also, in this hour of final trial, to give it the high sanction of their names and labors.

Mr. B. would arrest for an instant the current of his remarks, to fix the attention of the Senate upon a reflection which must suggest itself to the minds of all considerate persons. He would ask how it could happen that so many men, and such men as he had named, laboring for so many years, in a cause so just, for an object so beneficial, upon a state of facts so undeniable, could so long and so uniformly fail of success? How could this happen? Sir, exclaimed Mr. B., it happened because the policy of the Bank of the United States required it to happen! The same policy which required gold to be undervalued in 1792, when the first bank was chartered, has required it to be undervalued ever since, now that a second bank has been established; and the same strength which enabled these banks to keep themselves up, also enabled them to keep gold down. This is the answer to the question; and this the secret of the failure of all these eminent men in their laudable efforts to raise gold again to the dignity of money. This is the secret of their failure; and this secret being now known, the road which leads to the reformation of the gold currency lies uncovered and revealed before us: it is the road which leads to the overthrow of the Bank of the United States—to the sepulchre of that institution: for, while that bank lives, or has the hope of life, gold cannot be restored to life. Here then lies the question of the reform of the gold currency. If the bank is defeated, that currency is reformed; if the bank is victorious, gold remains degraded; to continue an article of merchandise in the hands of the bank, and to be expelled from circulation to make room for its five, its ten, and its twenty dollar notes. Let the people then, who are in favor of restoring gold to circulation, go to work in the right place, and put down the power that first put down gold, and which will never suffer that coin to rise while it has power to prevent it.

Mr. B. did not think it necessary to descant

and expatiate upon the merits and advantages of a gold currency. These advantages had been too well known, from the earliest ages of the world, to be a subject of discussion in the nineteenth century; but, as it was the policy of the paper system to disparage that metal, and as that system, in its forty years' reign over the American people, had nearly destroyed a knowledge of that currency, he would briefly enumerate its leading and prominent advantages. 1. It had an intrinsic value, which gave it currency all over the world, to the full amount of that value, without regard to laws or circumstances. 2. It had a uniformity of value, which made it the safest standard of the value of property which the wisdom of man had ever yet discovered. 3. Its portability; which made it easy for the traveller to carry it about with him. 4. Its indestructibility; which made it the safest money that people could keep in their houses. 5. Its inherent purity; which made it the hardest money to be counterfeited, and the easiest to be detected, and, therefore, the safest money for the people to handle. 6. Its superiority over all other money; which gave to its possessor the choice and command of all other money. 7. Its power over exchanges; gold being the currency which contributes most to the equalization of exchange, and keeping down the rate of exchange to the lowest and most uniform point. 8. Its power over the paper money; gold being the natural enemy of that system, and, with fair play, able to hold it in check. 9. It is a constitutional currency and the people have a right to demand it, for their currency, as long as the present constitution is permitted to exist.

Mr. B. said, that the false valuation put upon gold had rendered the mint of the United States, so far as the gold coinage is concerned, a most ridiculous and absurd institution. It has coined, and that at a large expense to the United States, 2,262,717 pieces of gold, worth $11,852,890; and where are these pieces now? Not one of them to be seen! all sold, and exported! and so regular is this operation that the director of the mint, in his latest report to Congress, says that the new coined gold frequently remains in the mint, uncalled for, though ready for delivery, until the day arrives for a packet to sail to Europe. He calculates that two millions of native gold will be coined annually hereafter; the whole of which, without a reform of the gold standard, will be conducted, like exiles, from the national mint to the sea-shore, and transported to foreign regions, to be sold for the benefit of the Bank of the United States.

Mr. B. said this was not the time to discuss the relative value of gold and silver, nor to urge the particular proportion which ought to be established between them. That would be the proper work of a committee. At present it might be sufficient, and not irrelevant, to say that this question was one of commerce—that it was purely and simply a mercantile problem—as much so as an acquisition of any ordinary merchandise from foreign countries could be. Gold goes where it finds its value, and that value is what the laws of great nations give it. In Mexico and South America—the countries which produce gold, and from which the United States must derive their chief supply—the value of gold is 16 to 1 over silver; in the island of Cuba it is 17 to 1; in Spain and Portugal it is 16 to 1; in the West Indies, generally, it is the same. It is not to be supposed that gold will come from these countries to the United States, if the importer is to lose one dollar in every sixteen that he brings; or that our own gold will remain with us, when an exporter can gain a dollar upon every fifteen that he carries out. Such results would be contrary to the laws of trade; and therefore we must place the same value upon gold that other nations do, if we wish to gain any part of theirs, or to regain any part of our own. Mr. B. said that the case of England and France was no exception to this rule. They rated gold at something less than 16 for 1, and still retained gold in circulation; but it was retained by force of peculiar laws and advantages which do not prevail in the United States. In England the circulation of gold was aided and protected by four subsidiary laws, neither of which exist here: one which prevented silver from being a tender for more than forty shillings; another which required the Bank of England to pay all its notes in gold; a third which suppressed the small note circulation; a fourth which alloyed their silver nine per cent. below the relative value of gold. In France the relative proportion of the two metals was also below what it was in Spain, Portugal, Mexico, and South America, and still a plentiful supply of gold remained in circulation; but this result

was aided by two peculiar causes; first, the total absence of a paper currency; secondly, the proximity of Spain, and the inferiority of Spanish manufactures, which gave to France a ready and a near market for the sale of her fine fabrics, which were paid for in the gold of the New World. In the United States, gold would have none of these subsidiary helps; on the contrary it would have to contend with a paper currency, and would have to be obtained, the product of our own mines excepted, from Mexico and South America, where it is rated as sixteen to one for silver. All these circumstances, and many others, would have to be taken into consideration in fixing a standard for the United States. Mr. B. repeated that there was nicety, but no difficulty, in adjusting the relative value of gold and silver so as to retain both in circulation. Several nations of antiquity had done it; some modern nations also. The English have both in circulation at this time. The French have both, and have had for thirty years. The States of this Union also had both in the time of the confederation; and retained them until this federal government was established, and the paper system adopted. Congress should not admit that it cannot do for the citizens of the United States, what so many monarchies have done for their subjects. Gentlemen, especially, who decry military chieftains, should not confess that they themselves cannot do for America, what a military chieftain did for France.

Mr. B. made his acknowledgments to the great apostle of American liberty (Mr. Jefferson), for the wise, practical idea, that the value of gold was a commercial question, to be settled by its value in other countries. He had seen that remark in the works of that great man, and treasured it up as teaching the plain and ready way to accomplish an apparently difficult object; and he fully concurred with the senator from South Carolina [Mr. Calhoun], that gold, in the United States, ought to be the preferred metal; not that silver should be expelled, but both retained; the mistake, of any, to be in favor of gold, instead of being against it.

IV. Mr. B. believed that it was the intention and declared meaning of the constitution, that foreign coins should pass currently as money, and at their full value, within the United States; that it was the duty of Congress to promote the circulation of these coins by giving them their full value; that this was the design of the States in conferring upon Congress the exclusive power of regulating the value of these coins; that all the laws of Congress for preventing the circulation of foreign coins, and underrating their value, were so many breaches of the constitution, and so many mischiefs inflicted upon the States; and that it was the bounden duty of Congress to repeal all such laws; and to restore foreign coins to the same free and favored circulation which they possessed when the federal constitution was adopted.

In support of the first branch of his first position Mr. B. quoted the words of the constitution which authorized Congress to regulate the value of foreign coins; secondly, the clause in the constitution which authorized Congress to provide for punishing the counterfeiting of current coin, in which term, foreign coin was included; thirdly, the clause which prohibited the States from making any thing but gold and silver coin a tender in payment of debts; a clause which did not limit the prohibition to domestic coins, and therefore included foreign ones. These three clauses, he said, were concurrent, and put foreign coin and domestic coin upon the same precise footing of equality, in every particular which concerned their current circulation their value, and their protection from counterfeiters. Historical recollections were the next evidence to which Mr. B. referred to sustain his position. He said that foreign coins were the only coins known to the United States at the adoption of the constitution. No mint had been established up to that time. The coins of other nations furnished the currency, the exclusive metallic currency, which the States had used from the close of the Revolutionary War up to the formation of this federal government. It was these foreign coins then which the framers of the constitution had in view when they inserted all the clauses in the constitution which bear upon the value and current circulation of coin; its protection from counterfeiters, and the prohibitory restriction upon the States with respect to the illegality of tenders of any thing except of gold and silver. To make this point still plainer, if plainer it could be made, Mr. B. adverted to the early statutes of Congress which related to foreign coins. He had seen no less than nine statutes, passed in the first four years of the action of this federal government, all en-

acted for the purpose of regulating the value, protecting the purity, and promoting the circulation of these coins. Not only the well-known coins of the principal nations were provided for in these statutes, but the coins of all the nations with whom we traded, how rare or small might be the coin, or how remote or inconsiderable might be the nation. By a general provision of the act of 1789, the gold coins of all nations, which equalled those of England, France, Spain and Portugal, in fineness, were to be current at 89 cents the pennyweight; and the silver coins of all nations, which equalled the Spanish dollar in fineness, were to be current at 111 cents the ounce. Under these general provisions, a great influx of the precious metals took place; doubloons, guineas, half joes, were the common and familiar currency of farmers and laborers, as well as of merchants and traders. Every substantial citizen then kept in his house a pair of small scales to weigh gold, which are now used by his posterity to weigh physic. It is a great many years—a whole generation has grown up—since these scales were used for their original purpose; nor will they ever be needed again for that use until the just and wise laws of '89 and '90, for the general circulation of foreign coins, shall again be put in force. These early statutes, added to historical recollections, could leave no doubt of the true meaning of the constitution, and that foreign coins were intended to be for ever current within the United States.

With this obvious meaning of the constitution, and the undeniable advantage which redounded to the United States from the acquisition of the precious metals from all foreign nations, the inquiry naturally presents itself, to know for what reason these coins have been outlawed by the Congress of the United States, and driven from circulation? The inquiring mind wishes to know how Congress could be brought, in a few short years after the adoption of the constitution, to contradict that instrument in a vital particular—to repeal the nine statutes which they had passed in favor of foreign coin—and to illegalize the circulation of that coin whose value they were to regulate, and whose purity to protect?

Sir, said Mr. B., I am unwilling to appear always in the same train, tracing up all the evils of our currency to the same fountain of mischiefs—the introduction of the paper system, and the first establishment of a federal bank among us. But justice must have its sway; historical truth must take its course; facts must be told; and authentic proof shall supply the place of narrative and assertion. We ascend, then, to the year '91—to the exhibition of the plan for the support of public credit—and see in that plan, as one of its features, a proposition for the establishment of a national mint; and in that establishment a subsidiary engine for the support of the federal bank. We have already seen that in the proposition for the establishment of the mint, gold was largely undervalued; and that this undervaluation has driven gold from the country and left a vacuum for the circulation of federal bank notes; we are now to see that the same mint establishment was to give further aid to the circulation of these notes, by excluding foreign coins, both gold and silver, from circulation, and thus enlarging the vacuum which was to be filled by bank paper. This is what we are now to see; and to see it, we will look at the plan for the support of public credit, and that feature of the plan which proposes the establishment of a national mint.

Mr. B. would remark, that four points were presented in this plan: 1. The eventual abolition of the currency of foreign coins; 2. The reduction of their value while allowed to circulate; 3. The substitution of domestic coins; and, 4. The substitution of bank notes in place of the uncurrent and undervalued foreign coins. Such were the recommendations of Secretary Hamilton; and legislative enactments quickly followed to convert his recommendations into law. The only power the constitution had given to Congress over foreign coins, was a power to regulate their value, and to protect them from debasement by counterfeiters. It was certainly a most strange construction of that authority, first, to underrate the value of these coins, and next, to prohibit their circulation! Yet both things were done. The mint went into operation in 1794; foreign coins were to cease to be a legal tender in 1797; but, at the end of that time, the contingencies on which the Secretary calculated, to enable the country to do without foreign coins, had not occurred; the substitutes had not appeared; the mint had not supplied the adequate quantity of domestic coin,

nor had the circulation of bank notes become sufficiently familiar to the people to supersede gold. The law for the exclusion of foreign coins was found to be impracticable; and a suspension of it for three years was enacted. At the end of this time the evil was found to be as great as ever; and a further suspension of three years was made. This third term of three years also rolled over, the supply of domestic coins was still found to be inadequate, and the people continued to be as averse as ever to the bank note substitute. A fourth suspension of the law became necessary, and in 1806 a further suspension for three years was made; after that a fifth, and finally a sixth suspension, each for the period of three years; which brought the period for the actual and final cessation of the circulation of foreign coins, to the month of November, 1819. From that time there was no further suspension of the prohibitory act. An exception was continued, and still remains, in favor of Spanish milled dollars and parts of dollars; but all other foreign coins, even those of Mexico and all the South American States, have ceased to be a legal tender, and have lost their character of current money within the United States. Their value is degraded to the mint price of bullion; and thus the constitutional currency becomes an article of merchandise and exportation. Even the Spanish milled dollar, though continued as a legal tender, is valued, not as money, but for the pure silver in it, and is therefore undervalued three or four per cent. and becomes an article of merchandise. The Bank of the United States has collected and sold 4,450,000 of them. Every money dealer is employed in buying, selling, and exporting them. The South and West, which receives them, is stripped of them.

Having gone through this narrative of facts, and shown the exclusion of foreign coins from circulation to be a part of the paper system, and intended to facilitate the substitution of a bank note currency, Mr B. went on to state the injuries resulting from the measure. At the head of these injuries he was bound to place the violation of the constitution of the United States, which clearly intended that foreign coins should circulate among us, and which, in giving Congress authority to regulate their value, and to protect them from counterfeiters, could never have intended to stop their circulation, and to abandon them to debasement. 2. He denounced this exclusion of foreign coins as a fraud, and a fraud of the most injurious nature, upon the people of the States. The States had surrendered their power over the coinage to Congress; they made the surrender in language which clearly implied that their currency of foreign coins was to be continued to them; yet that currency is suppressed; a currency of intrinsic value, for which they paid interest to nobody, is suppressed; and a currency without intrinsic value, a currency of paper subject to every fluctuation, and for the supply of which corporate bodies receive interest, is substituted in its place. 3. He objected to this suppression as depriving the whole Union, and especially the Western States, of their due and necessary supply of hard money. Since that law took effect, the United States had only been a thoroughfare for foreign coins to pass through. All that was brought into the country, had to go out of the country. It was exported as fast as imported. The custom-house books proved this fact. They proved, that from 1821 to 1833, the imports of specie were $89,428,462; the exports, for the same time, were $88,821,433; lacking but three quarters of a million of being precisely equal to the imports! Some of this coin was recoined before it was exported, a foolish and expensive operation on the part of the United States; but the greater part was exported in the same form that it was received. Mr. B. had only been able to get the exports and imports from 1821; if he could have obtained those of 1820, and the concluding part of 1819, when the prohibitory law took effect, the amount would have been about ninety-six millions of dollars; the whole of which was lost to the country by the prohibitory law, while much of it would have been saved, and retained for home circulation, if it had not been for this law. The loss of this great sum in specie was an injury to the whole Union, but especially to the Western States, whose sole resource for coin was from foreign countries; for the coinage of the mint could never flow into that region; there was nothing in the course of trade and exchanges, to carry money from the Atlantic States to the West and the mint, if it coined thousands of millions, could not supply them. The taking effect of the law in the year 1819, was an aggravation of the injury. It was the most unfortunate and ruinous of all times for driving specie from the

country. The Western banks, from their exertions to aid the country during the war, had stretched their issues to the utmost limit; their notes had gone into the land offices; the federal government turned them over to the Bank of the United States; and that bank demanded specie. Thus, the necessity for specie was increased at the very moment that the supply was diminished; and the general stoppage of the Western banks, was the inevitable and natural result of these combined circumstances.

Having shown the great evils resulting to the country from the operation of this law, Mr. B. called upon its friends to tell what reason could now be given for not repealing it? He affirmed that, of the two causes to which the law owed its origin, one had failed *in toto*, and the other had succeeded to a degree to make it the curse and the nuisance of the country. One reason was to induce an adequate supply of foreign coins to be brought to the mint, to be recoined; the other to facilitate the substitution of a bank note currency. The foreign coins did not go to the mint, those excepted which were imported in its own neighborhood; and even these were exported nearly as fast as recoined. The authority of the director of the mint had already been quoted to show that the new coined gold was transferred direct from the national mint to the packet ships, bound to Europe. The custom-house returns showed the large exportation of domestic coins. They would be found under the head of "Domestic Manufactures Exported;" and made a large figure in the list of these exports. In the year 1832, it amounted to $2,058 474, and in the year 1833, to $1,410,941; and every year it was more or less; so that the national mint had degenerated into a domestic manufactory of gold and silver, for exportation to foreign countries. But the coins imported at New Orleans, at Charleston, and at other points remote from Philadelphia, did not go there to be recoined. They were, in part, exported direct from the place of import, and in part used by the people as current money, in disregard of the prohibitory law of 1819. But the greater part was exported—for no owner of foreign coin could incur the trouble, risk, and expense, of sending it some hundred or a thousand miles to Philadelphia, to have it recoined; and then incurring the same expense, risk, and trouble (lying out of the use of the money, and receiving no interest all the while), of bringing it back to be put into circulation; with the further risk of a deduction for want of standard fineness at the mint, when he could sell and export it upon the spot. Foreign coins could not be recoined, so as to supply the Union, by a solitary mint on the Atlantic coast. The great West could only be supplied from New Orleans. A branch of the mint, placed there, could supply the West with domestic coins. Mexico, since she became a free country, has established seven mints in different places, because it was troublesome and expensive to carry bullion from all parts of the country to be coined in the capital; and when coined there, there was nothing in the course of trade to carry them back into the country; and the owners of it would not be at the expense and trouble of carrying it back, and getting it into circulation, being the exact state of things at present in the gold mines of the Southern States. The United States, upon the same principles and for the same reasons, should establish branches of the mint in the South, convenient to the gold mine region, and at New Orleans, for the benefit of that city and the West. Without a branch of the mint at New Orleans, the admission of foreign coins is indispensable to the West; and thus the interest of that region joins itself to the voice of the constitution in demanding the immediate repeal of all laws for illegalizing the circulation of these coins, and for sinking them from their current value as money, to their mint value as bullion. The design of supplying the mint with foreign coins, for recoinage, had then failed; and in that respect the exclusion of foreign coins has failed in one of its objects—in the other, that of making room for a substitute of bank notes, the success of the scheme has been complete, excessive, and deplorable.

Foreign coins were again made a legal tender, their value regulated and their importation encouraged, at the expiration of the charter of the first Bank of the United States. This continued to be the case until after the present Bank of the United States was chartered; as soon as that event happened, and bank policy again became predominant in the halls of Congress, the circulation of foreign coins was again struck at and, in the second year of the existence of the

bank, the old act of 1793, for rendering these coins uncurrent, was carried into final and complete effect. Since that time, the bank has enjoyed all her advantages from this exclusion. The expulsion of these coins has created a vacuum, to be filled up by her small note circulation; the traffic and trade in them has been as large a source of profit to her as of loss to the country. Gold coin she has sold at an advance of five or six per cent.; silver coin at about two or three per cent.; and, her hand being in, she made no difference between selling domestic coin and foreign coin. Although forbid by her charter to deal in coin, she has employed her branches to gather $40,040,000 of coin from the States; a large part of which she admits that she has sold and transported to Europe. For the sale of the foreign coin, she sets up the lawyer-like plea, that it is not coin, but bullion! resting the validity of the plea upon English statute law! while, by the constitution of the United States, all foreign coins are coin; while, by her own charter, the coins, both gold and silver, of Great Britain, France, Spain, and Portugal, and their dominions, are declared to be coin; and, as such, made receivable in payment of the specie proportion of the bank stock—and, worse yet! while Spanish dollars, by statute, remain the current coin of the United States, the bank admits the sale of 4,450,142 of these identical Spanish milled dollars!

Mr. B. then took a rapid view of the present condition of the statute currency of the United States—of that currency which was a legal tender—that currency with which a debtor had a right by law to protect his property from execution, and his body from jail, by offering it as a matter of right, to his creditor in payment of his debt. He stated this statute currency to be: 1st. Coins from the mint of the United States; 2dly. Spanish milled dollars, and the parts of such dollars. This was the sum total of the statute currency of the United States; for happily no paper of any bank, State or federal, could be made a legal tender. This is the sum total out of which any man in debt can legally pay his debt: and what is his chance for making payment out of this brief list? Let us see. Coinage from the mint: not a particle of gold, nor a single whole dollar to be found; very few half dollars, except in the neighborhood of the mint, and in the hands of the Bank of the United States and its branches; the twenty, ten, and five cent pieces scarcely seen, except as a curiosity, in the interior parts of the country. So much for the domestic coinage. Now for the Spanish milled dollars—how do they stand in the United States? Nearly as scarce as our own dollars; for, there has been none coined since Spain lost her dominion over her colonies in the New World; and the coinage of these colonies, now independent States, neither is in law, nor in fact, Spanish milled. That term belongs to the coinage of the Spanish crown, with a Spanish king's head upon the face of it; although the coin of the new States, the silver dollars of Mexico, Central America, Peru, and Chili, are superior to Spanish dollars, in value, because they contain more pure silver, still they are not a tender; and all the francs from France, in a word, all foreign coin except Spanish milled dollars, the coinage of which has ceased, and the country stripped of all that were in it, by the Bank of the United States, are uncurrent, and illegal as tenders: so that the people of the United States are reduced to so small a list, and so small a supply of statute currency, out of which debts can legally be paid, that it may be fairly assumed that the whole debtor part of the community lie at the mercy of their creditors, to have their bodies sent to jail, or their property sold for nothing, at any time that their creditors please. To such a condition are the free and high-minded inhabitants of this country reduced! and reduced by the power and policy of the first and second Banks of the United States, and the controlling influence which they have exercised over the moneyed system of the Union, from the year 1791 down to the present day.

Mr. B. would conclude what he had to say, on this head, with one remark; it was this: that while the gold and silver coin of all the monarchs of Europe were excluded from circulation in the United States, the paper notes of their subjects were received as current money. The Bank of the United States was, in a great degree, a foreign institution. Foreigners held a great part of its stock, and may hold it all. The paper notes issued by this institution, thus composed in great part of the subjects of European kings, are made legal tenders to the federal government, and thus forced into circulation among the people; while the gold and sil

ver coin of the kings to which they belong, is rejected and excluded, and expelled from the country! He demanded if any thing could display the vice and deformity of the paper system in a more revolting and humiliating point of view than this single fact?

V. Mr. B. expressed his satisfaction at finding so many points of concurrence between his sentiments on currency, and those of the senator from South Carolina (Mr. Calhoun). Reform of the gold currency—recovery of specie—evils of excessive banking—and the eventual suppression of small notes—were all points in which they agreed, and on which he hoped they should be found acting together when these measures should be put to the test of legislative action. He regretted that he could not concur with that senator on the great points to which all the others might be found to be subordinate and accessorial. He alluded to the prolonged existence of the Bank of the United States! and especially to the practical views which that senator had taken of the beneficial operation of that institution, first, as the regulator of the local currencies, and next, as the supplier of a general currency to the Union. On both these points, he differed—immeasurably differed—from that senator; and dropping all other views of that bank, he came at once to the point which the senator from South Carolina marked out as the true and practical question of debate; and would discuss that question simply under its relation to the currency; he would view the bank simply as the regulator of local currencies and the supplier of a national currency, and would give his reasons for differing—irreconcilably differing—from the senator from South Carolina on these points.

Mr. B. took three distinct objections to the Bank of the United States, as a regulator of currency: 1, that this was a power which belonged to the government of the United States; 2, that it could not be delegated; 3, that it ought not be delegated to any bank.

1. The regulation of the currency of a nation, Mr B. said, was one of the highest and most delicate acts of sovereign power. It was precisely equivalent to the power to create currency; for, a power to make more or less, was, in effect, a power to make much or none. It was the coining power; a power that belonged to the sovereign; and, where a paper currency was tolerated, the coining power was swallowed up and superseded by the manufactory which emitted paper. In the present state of the currency of the United States, the federal bank was the mint for issuing money; the federal mint was a manufactory for preparing gold and silver for exportation. The States, in the formation of the constitution, gave the coining power to Congress; with that power, they gave authority to regulate the currency of the Union, by regulating the value of gold and silver, and preventing any thing but metallic money from being made a tender in payment of debts. It is by the exercise of these powers that the federal government is to regulate the currency of the Union; and all the departments of the government are required to act their parts in effecting the regulation: the Congress, as the department that passes the law; the President, as the authority that recommends it, approves it, and sees that it is faithfully executed; the judiciary, as standing between the debtor and creditor, and preventing the execution from being discharged by any thing but gold and silver and that at the rate which the legislative department has fixed. This is the power, and sole power, of regulating currency which the federal constitution contains; this power is vested in the federal government, not in one department of it, but in the joint action of the three departments; and while this power is exercised by the government, the currency of the whole Union will be regulated, and the regulation effected according to the intention of the constitution, by keeping all the local banks up to the point of specie payment; and thereby making the value of their notes equivalent to specie.

2. This great and delicate power, thus involving the sacred relations of debtor and creditor, and the actual rise or fall in the value of every man's property, Mr. B. undertook to affirm, could not be delegated. It was a trust from the State governments to the federal government. The State governments divested themselves of this power, and invested the federal government with it, and made its exercise depend upon the three branches of the new government; and this new government could no more delegate it, than they could delegate any other great power which they were bound to execute themselves. Not a word of this regu

lating power, Mr. B. said, was heard of when the first bank was chartered, in the year 1791. No person whispered such a reason for the establishment of a bank at that time; the whole conception is newfangled—an afterthought—growing out of the very evils which the bank itself has brought upon the country, and which are to be cured by putting down that great bank; after which, the Congress and the judiciary will easily manage the small banks, by holding them up to specie payments, and excluding every unsolid note from revenue payments.

3. Mr. B. said that the government ought not to delegate this power, if it could. It was too great a power to be trusted to any banking company whatever, or to any authority but the highest and most responsible which was known to our form of government. The government itself ceased to be independent—it ceases to be safe—when the national currency is at the will of a company. The government can undertake no great enterprise, neither of war nor peace, without the consent and co-operation of that company; it cannot count its revenues for six months ahead without referring to the action of that company—its friendship or its enmity—its concurrence or opposition—to see how far that company will permit money to be plenty, or make it scarce; how far it will let the moneyed system go on regularly, or throw it into disorder; how far it will suit the interests, or policy, of that company to create a tempest, or to suffer a calm, in the moneyed ocean. The people are not safe when a company has such a power. The temptation is too great—the opportunity too easy—to put up and put down prices; to make and break fortunes; to bring the whole community upon its knees to the Neptunes who preside over the flux and reflux of paper. All property is at their mercy. The price of real estate—of every growing crop—of every staple article in market—is at their command. Stocks are their playthings—their gambling theatre—on which they gamble daily, with as little secrecy, and as little morality, and far more mischief to fortunes, than common gamblers carry on their operations. The philosophic Voltaire, a century ago, from his retreat in Ferney, gave a lively description of this operation, by which he was made a winner, without the trouble of playing. I have a friend, said he, who is a director in the Bank of France, who writes to me when they are going to make money plenty, and make stocks rise, and then I give orders to my broker to sell; and he writes to me when they are going to make money scarce, and make stocks fall, and then I write to my broker to buy; and thus, at a hundred leagues from Paris, and without moving from my chair, I make money. This, said Mr. B., is the operation on stocks to the present day; and it cannot be safe to the holders of stock that there should be a moneyed power great enough in this country to raise and depress the prices of their property at pleasure. The great cities of the Union are not safe, while a company, in any other city, have power over their moneyed system, and are able, by making money scarce or plenty—by exciting panics and alarms—to put up, or put down, the price of the staple articles in which they deal. Every commercial city, for its own safety, should have an independent moneyed system—should be free from the control and regulation of a distant, possibly a rival city, in the means of carrying on its own trade. Thus, the safety of the government, the safety of the people, the interest of all owners of property—of all growing crops—the holders of all stocks—the exporters of all staple articles—require that the regulation of the currency should be kept out of the hands of a great banking company; that it should remain where the constitution placed it—in the hands of the federal government—in the hands of their representatives who are elected by them, responsible to them, may be exchanged by them, who can pass no law for regulating currency which will not bear upon themselves as well as upon their constituents. This is what the safety of the community requires; and, for one, he (Mr. B.) would not, if he could, delegate the power of regulating the currency of this great country to any banking company whatsoever. It was a power too tremendous to be trusted to a company. The States thought it too great a power to be trusted to the State governments; he (Mr. B.) thought so too. The States confided it to the federal government; he, for one, would confine it to the federal government, and would make that government exercise it. Above all, he would not confer it upon a bank which was itself above regulation; and on this point he called upon the Senate to recollect the question, apparently

trite, but replete with profound sagacity—that sagacity which it belongs to great men to possess, and to express—which was put to the Congress of 1816, when this bank charter was under discussion, and the regulation of the currency was one of the attributes with which it was to be invested; he alluded to his late esteemed friend (Mr. Randolph), and to his call upon the House to tell him who was to bell the cat? That single question contains in its answer, and in its allusion, the exact history of the people of the United States, and of the Bank of the United States, at this day. It was a flash of lightning into the dark vista of futurity, showing in 1816 what we all see in 1834.

Mr. B. took up the second point on which he disagreed with the Senator from South Carolina [Mr. Calhoun], namely, the capacity of the Bank of the United States to supply a general currency to the Union. In handling this question he would drop all other inquiries—lay aside every other objection—overlook every consideration of the constitutionality and expediency of the bank, and confine himself to the strict question of its ability to diffuse and retain in circulation a paper currency over this extended Union. He would come to the question as a banker would come to it at his table, or a merchant in his counting-room, looking to the mere operation of a money system. It was a question for wise men to think of, and for abler men than himself to discuss. It involved the theory and the science of banking—Mr. B. would say the philosophy of banking, if such a term could be applied to a moneyed system. It was a question to be studied as the philosopher studies the laws which govern the material world—as he would study the laws of gravitation and attraction which govern the movements of the planets, or draw the waters of the mountains to the level of the ocean. The moneyed system, said Mr. B., has its laws of attraction and gravitation—of repulsion and adhesion; and no man may be permitted to indulge the hope of establishing a moneyed system contrary to its own laws. The genius of man has not yet devised a bank—the historic page is yet to be written which tells of a bank—which has diffused over an extensive country, and retained in circulation, a general paper currency. England is too small a theatre for a complete example; but even there the impossibility is confessed, and has been confessed for a century. The Bank of England, in her greatest day of pre-eminence, could not furnish a general currency for England alone—a territory not larger than Virginia. The country banks furnished the local paper currency, and still furnish it as far as it is used. They carried on their banking upon Bank of England notes, until the gold currency was restored; and local paper formed the mass of local circulation. The notes of the Bank of England flowed to the great commercial capitals, and made but brief sojourn in the counties. But England is not a fair example for the United States; it is too small; a fairer example is to be found nearer home, in our own country, and in this very Bank of the United States which is now existing, and in favor of which the function of supplying a general currency to this extended confederacy is claimed. We have the experiment of this bank, not once, but twice made; and each experiment proves the truth of the laws which govern the system. The theory of bank circulation, over an extended territory, is this, that you may put out as many notes as you may in any one place, they will immediately fall into the track of commerce—into the current of trade—into the course of exchange—and follow that current wherever it leads. In these United States the current sets from every part of the interior, and especially from the South and West into the Northeast—into the four commercial cities north of the Potomac; Baltimore, Philadelphia, New-York, and Boston: and all the bank notes which will pass for money in those places, fall into the current which sets in that direction. When there, there is nothing in the course of trade to bring them back. There is no reflux in that current! It is a trade-wind which blows twelve months in the year in the same direction. This is the theory of bank circulation over extended territory; and the history of the present bank is an exemplification of the truth of that theory. Listen to Mr. Cheves. Read his report made to the stockholders at their triennial meeting in 1822. He stated this law of circulation, and explained the inevitable tendency of the branch bank notes to flow to the Northeast; the impossibility of preventing it; and the resolution which he had taken and executed, to close all the Southern and Western branches, and prevent them from issuing any more notes. Even while issuing their own notes, they had so far forgot

their charter as to carry on operations, in part, upon the notes of the local banks—having collected those notes in great quantity, and loaned them out. This was reported by the investigating committee of 1819, and made one of the charges of misconduct against the bank at that time. To counteract this tendency, the bank applied to Congress for leave to issue their bank notes on terms which would have made them a mere local currency. Congress refused it; but the bank is now attempting to do it herself, by refusing to take the notes received in payment of the federal revenue, and sending it back to be paid where issued. Such was the history of the branch bank notes, and which caused that currency to disappear from all the interior, and from the whole South and West, so soon after the bank got into operation. The attempt to keep out branch notes, or to send the notes of the mother bank to any distance, being found impracticable, there was no branch currency of any kind in circulation for a period of eight or nine years, until the year 1827, when the branch checks were invented, to perform the miracle which notes could not. Mr. B. would say nothing about the legality of that invention; he would now treat them as a legal issue under the charter; and in that most favorable point of view for them, he would show that these branch checks were nothing but a quack remedy—an empirical contrivance—which made things worse. By their nature they were as strongly attracted to the Northeast as the branch notes had been; by their terms they were still more strongly attracted, for they bore Philadelphia on their face! they were payable at the mother bank! and, of course, would naturally flow to that place for use or payment. This was their destiny, and most punctually did they fulfil it. Never did the trade-winds blow more truly—never did the gulf stream flow more regularly—than those checks flowed to the Northeast! The average of four years next ensuing the invention of these checks, which went to the mother bank, or to the Atlantic branches north of the Potomac, including the branch notes which flowed with them, was about nineteen millions of dollars per annum! Mr. B. then exhibited a table to prove what he alleged, and from which it appeared that the flow of the branch paper to the Northeast was as regular and uniform as an operation of nature; that each city according to its commercial importance, received a greater or less proportion of this inland paper gulf stream; and that the annual variation was so slight as only to prove the regularity of the laws by which it was governed. The following is the table which he exhibited. It was one of the tabular statements obtained by the investigating committee in 1832:

Amount of Branch Bank Paper received at—

	1828.	1829.	1830.	1831.
1. New-York, .	11,938,350	11,294,960	9,168,870	12,284,320
2. Philadelphia,	4,453,150	4,106,985	4,579,725	5,898,800
3. Boston, . .	1,010,730	1,844,170	1,794,750	1,816,480
4. Baltimore,	1,437,100	1,420,360	1,376,320	1,588,680
	18,888,330	18,666,475	16,919,160	21,092,280

After exhibiting this table, and taking it for complete proof of the truth of the theory which he had laid down, and that it demonstrated the impossibility of keeping up a circulation of the United States Bank paper in the remote and interior parts of the Union, Mr. B. went on to say that the story was yet but half told—the mischief of this systematic flow of national currency to the Northeast, was but half disclosed; another curtain was yet to be lifted—another vista was yet to be opened—and the effect of the system upon the metallic currency of the States was to be shown to the people and the States. This view would show, that as fast as the checks or notes of any branch were taken up at the mother bank, or at the branches north of the Potomac, an account was opened against the branch from which they came. The branch was charged with the amount of the notes or checks taken up; and periodically served with a copy of the account, and commanded to send on specie or bills of exchange to redeem them. When redeemed, they were remitted to the branch from which they came; while on the road they were called notes in transitu; and when arrived they were put into circulation again at that place—fell into the current immediately, which carried them back to the Northeast—there taken up again, charged to the branch—the branch required to redeem them again with specie or bills of exchange; and then returned to her, to be again put into circulation, and to undergo again and again, and until the branch could no longer redeem them, the endless process of flowing to the Northeast. The result of the whole was, is, and for ever will be, that the branch will have to redeem its circulation till redemption is im-

possible; until it has exhausted the country of its specie; and then the country in which the branch is situated is worse off than before she had a branch; for she had neither notes nor specie left. Mr. B. said that this was too important a view of the case to be rested on argument and assertion alone; it required evidence to vanquish incredulity, and to prove it up; and that evidence was at hand. He then referred to two tables to show the amount of hard money which the mother bank, under the operation of this system, had drawn from the States in which her branches were situated. All the tables were up to the year 1831, the period to which the last investigating committee had brought up their inquiries. One of these statements showed the amount abstracted from the whole Union; it was $40,040,622 20; another showed the amount taken from the Southern and Western States; it was $22,523,387 94; another showed the amount taken from the branch at New Orleans; it was $12,815,798 10. Such, said Mr. B., has been the result of the experiment to diffuse a national paper currency over this extended Union. Twice in eighteen years it has totally failed, leaving the country exhausted of its specie, and destitute of paper. This was proof enough, but there was still another mode of proving the same thing; it was the fact of the present amount of United States Bank notes in circulation. Mr. B. had heard with pain the assertion made in so many memorials presented to the Senate, that there was a great scarcity of currency; that the Bank of the United States had been obliged to contract her circulation in consequence of the removal of the deposits, and that her notes had become so scarce that none could be found; and strongly contrasting the present dearth which now prevails with the abundant plenty of these notes which reigned over a happy land before that fatal measure came to blast a state of unparalleled prosperity. The fact was, Mr. B. said, that the actual circulation of the bank is greater now than it was before the removal of the deposits; greater than it has been in any month but one for upwards of a year past. The discounts were diminished, he said, but the circulation was increased.

Mr. B. then exhibited a table of the actual circulation of the Bank of the United States for the whole year 1833, and for the two past months of the present year; and stated it to be taken from the monthly statements of the bank, as printed and laid upon the tables of members. It was the net circulation—the quantity of notes and checks actually out—excluding all that were on the road returning to the branch banks, called notes in transitu, and which would not be counted till again issued by the branch to which they were returned.

The following is the table:

January, 1833, . .	$17,666,444
February, " . . .	18,384,050
March, " . . .	18,033,205
April, " . . .	18,384,075
May, " . . .	18,991,200
June, " . . .	19,366,555
July, " . . .	18,890,505
August, " . . .	18,413,287
September, " . . .	19,128,189
October, " . . .	18,518,000
November, " . . .	18,650,912
December, " . . .	not found.
January, 1834, . .	19,208,375
February, " . . .	19,260,472

By comparing the circulation of each month, as exhibited on this table, Mr. B. said, it would be seen that the quantity of United States Bank notes now in circulation is three quarters of a million greater than it was in October last, and a million and a half greater than it was in January, 1833. How, then, are we to account for this cry of no money, in which so many respectable men join? It is in the single fact of their flow to the Northeast. The pigeons, which lately obscured the air with their numbers, have all taken their flight to the North! But pigeons will return of themselves, whereas these bank notes will never return till they are purchased with gold and silver, and brought back. Mr. B. then alluded to a petition from a meeting in his native State, North Carolina, and in which one of his esteemed friends (Mr. Carson) late a member of the House of Representatives, was a principal actor, and which stated the absolute disappearance of United States Bank notes from all that region of country. Certainly the petition was true in that statement; but it is equally true that it was mistaken in supposing that the circulation of the bank was diminished. The table which he had read had shown the contrary; it showed an increase, in-

stead of a diminution, of the circulation. The only difference was that it had all left that part of the country, and that it would do for ever! If a hundred millions of United States Bank notes were carried to the upper parts of North Carolina, and put into circulation, it would be but a short time before the whole would have fallen into the current which sweeps the paper of that bank to the Northeast. Mr. B. said there were four other classes of proof which he could bring in, but it would be a consumption of time, and a work of supererogation. He would not detail them, but state their heads: 1. One was the innumerable orders which the mother bank had forwarded to her branches to send on specie and bills of exchange to redeem their circulation—to pour in reinforcements to the points to which their circulation tends; 2. Another was in the examination of Mr. Biddle, president of the bank, by the investigating committee, in 1832, in which this absorbing tendency of the branch paper to flow to the Northeast was fully charged and admitted; 3. A third was in the monthly statement of the notes *in transitu*, which amount to an average of four millions and a half for the last twelve months, making fifty millions for the year; and which consist, by far the greater part, of branch notes and checks redeemed in the Northeast, purchased back by the branches, and on their way back to the place from which they issued; and, 4. The last class of proof was in the fact, that the branches north of the Potomac, being unable or unwilling to redeem these notes any longer, actually ceased to redeem them last fall, even when taken in revenue payment to the United States, until coerced by the Secretary of the Treasury; and that they will not be redeemed for individuals now, and are actually degenerating into a mere local currency. Upon these proofs and arguments, Mr. B. rested his case, and held it to be fully established, first, by argument, founded in the nature of bank circulation over an extended territory; and secondly, by proof, derived from the operation of the present bank of the United States, that neither the present bank, nor any one that the wisdom of man can devise, can ever succeed in diffusing a general paper circulation over the States of this Union.

VI. Dropping every other objection to the bank—looking at it purely and simply as a supplier of national currency—he, Mr. B., could not consent to prolong the existence of the present bank. Certainly a profuse issue of paper at all points—an additional circulation of even a few millions poured out at the destitute points—would make currency plenty for a little while, but for a little while only. Nothing permanent would result from such a measure. On the contrary, in one or two years, the destitution and distress would be greater than it now is. At the same time, it is completely in the power of the bank, at this moment, to grant relief, full, adequate, instantaneous relief! In making this assertion, Mr B. meant to prove it; and to prove it, he meant to do it in a way that it should reach the understanding of every candid and impartial friend that the bank possessed; for he meant to discard and drop from the inquiry, all his own views upon the subject; to leave out of view every statement made, and every opinion entertained by himself, and his friends, and proceeed to the inquiry upon the evidence of the bank alone—upon that evidence which flowed from the bank directory itself, and from the most zealous, and best informed of its friends on this floor. Mr. B. assumed that a mere cessation to curtail discounts, at this time, would be a relief—that it would be the salvation of those who were pressed—and put an end to the cry of distress; he averred that this curtailment must now cease, or the bank must find a new reason for carrying it on; for the old reason is exhausted, and cannot apply. Mr. B. then took two distinct views to sustain his position: one founded in the actual conduct and present condition of the bank itself, and the other in a comparative view of the conduct and condition of the former Bank of the United States, at the approaching period of its dissolution.

I. As to the conduct and condition of the present bank.

Mr. B. appealed to the knowledge of all present for the accuracy of his assertion, when he said that the bank had now reduced her discounts, dollar for dollar, to the amount of public deposits withdrawn. The adversaries of the bank said the reduction was much larger than the abstraction; but he dropped that, and confined himself strictly to the admissions and declarations of the bank itself. Taking then the fact to be, as the bank alleged it to be, that she had merely brought down her business in pro-

portion to the capital taken from her, it followed of course that there was no reason for reducing her business any lower. Her relative position —her actual strength—was the same now that it was before the removal; and the old reason could not be available for the reduction of another dolla.. Next, as to her condition. Mr. B. undertook to affirm, and would quickly prove, that the general condition of the bank was better now than it had been for years past; and that the bank was better able to make loans, or to increase her circulation, than she was in any of those past periods in which she was so lavishly accommodating the public. For the proof of this, Mr. B. had recourse to her specie fund, always the true test of a bank's ability, and showed it to be greater now than it had been for two years past, when her loans and circulation were so much greater than they are now. He took the month of May, 1832, when the whole amount of specie on hand was $7,890,347 59; when the net amount of notes in circulation was $21,044,415; and when the total discounts were $70,428,070 72: and then contrasted it with the condition of the bank at this time, that is to say, in the month of February last, when the last return was made; the items stands thus: specie, $10,523,385 69; net amount of notes in circulation, $19,260,472; total discounts, $54,842,973 64. From this view of figures, taken from the official bank returns, from which it appeared that the specie in the bank was nearly three millions greater than it was in May, 1832, her net circulation nearly two millions less, and her loans and discounts upwards of fifteen millions less; Mr. B. would submit it to all candid men to say whether the bank is not more able to accommodate the community now than she was then? At all events, he would demand if she was not now able to cease pressing them?

II. As to the comparative condition and conduct of the first Bank of the United States at the period of its approacning dissolution.

Mr. B. took the condition of the bank from Mr. Gallatin's statement of its affairs to Congress, made in January, 1811, just three months before the charter expired; and which showed the discounts and loans of the bank to be $14,578,294 25, her capital being $10,000,000; so that the amount of her loans, three months before her dissolution, was nearly in proportion—near enough for all practical views—to the proportion which the present loans of the Bank of the United States bear to its capital of thirty-five millions. Fifty per cent. upon the former would give fifteen millions; fifty per cent. upon the latter would give fifty-two millions and a half. To make the relative condition of the two banks precisely equal, it will be sufficient that the loans and discounts of the present bank shall be reduced to fifty-two millions by the month of January, 1836; that is to say, it need not make any further sensible reduction of its loans for nearly two years to come. Thus, the mere imitation of the conduct of the old bank wil be a relief to the community. A mere cessation to curtail, will put an end to the distress, and let the country go on, quietly and regularly, in its moneyed operations. If the bank will not do this—if it will go on to curtail—it is bound to give some new reason to the country. The old reason, of the removal of the deposits, will no longer answer. Mr. B. had no faith in that reason from the beginning, but he was now taking the bank upon her own evidence, and trying her upon her own reasons. and he held it to be impossible for her to go on without the production of a reason. The hostility of the government—rather an incomprehensible, and altogether a gratuitous reason, from the beginning—will no longer answer. The government in 1811 was as hostile to the old bank, as the government now is to this one; and rather more so. Both Houses of Congress were then hostile to it, and hostile unto death! For they let it die! die on the day appointed by law for its death, without pity, without remorse, without the reprieve of one day. The government can do no worse now. The Secretary of the Treasury has removed the deposits; and that account is settled by the reduction of an equal amount of loans and discounts. The rest depends upon the government; and the hostility of the government cannot go further than to kill the bank, and cannot kill it more dead than the old bank was killed in 1811. Mr. B. had a further comparison to draw between the conduct of the old bank, and the present one. The old bank permitted her discounts to remain at their maximum to the very end of her charter; she discounted sixty days' paper up to the last day of her existence; while this bank has commenced a furious curtailment two years and a half be

fore the expiration of her charter. Again: the old bank had not an hour, as a corporation, to wind up her business after the end of her charter; this bank has the use of all her corporate faculties, for that purpose, for two years after the end of her charter. Again: the present bank pretends that she will have to collect the whole of her debts within the period limited for winding up her affairs; the old bank took upwards of twelve years after the expiration of her charter, to collect hers! She created a trust; she appointed trustees; all the debts and credits were put into their hands, the trustees proceeded like any other collectors, giving time to all debtors who would secure the debt, pay interest punctually, and discharge the principal by instalments. This is what the old bank did; and she did not close her affairs until the 16th of June, in the year 1823. The whole operation was conducted so gently, that the public knew nothing about it. The cotemporaries of the dissolution of the bank, knew nothing about its dissolution. And this is what the present bank may do, if it pleases. That it has not done so—that it is now grinding the community, and threatening to grind them still harder, is a proof of the dangerous nature of a great moneyed power; and should be a warning to the people who now behold its conduct—who feel its gripe, and hear its threat—never to suffer the existence of such another power in our free and happy land.

VII. Mr. B. deprecated the spirit which seemed to have broken out against State banks; it was a spirit which augured badly for the rights of the States. Those banks were created by the States; and the works of the States ought to be respected; the stock in those banks was held by American citizens, and ought not to be injuriously assailed to give value to stock held in the federal bank by foreigners and aliens. The very mode of carrying on the warfare against State banks, has itself been an injury, and a just cause of complaint. Some of the most inconsiderable have been picked out—their affairs presented in the most unfavorable light; and then held forth as a fair sample of the whole. How much more easy would it have been to have acted a more grateful, and a more equitable part! a part more just to the State governments which created those banks, and the American citizens who held stock in them! Instead of hunting out for remote and inconsiderable banks, and instituting a most disparaging scrutiny into their small affairs, and making this high Senate the conspicuous theatre for the exhibition of their insignificance, why not take the higher order of the State banks?—those whose names and characters are well known? whose stock upon the exchange of London and New-York, is superior to that of the United States Bank? whose individual deposits are greater than those of the rival branches of the Bank of the United States, seated in their neighborhood? whose bills of exchange are as eagerly sought for as those of the federal bank? which have reduced exchange below the rates of the federal bank? and which, in every particular that tries the credit, is superior to the one which is receiving so much homage and admiration? Mr. B. said there were plenty of such State banks as he had described; they were to be found in every principal city, from New Orleans to Boston. Some of them had been selected for deposit banks, others not; but there was no difficulty in making a selection of an ample number.

This spirit of hostility to the State banks, Mr. B. said, was of recent origin, and seemed to keep pace with the spirit of attack upon the political rights of the States. When the first federal bank was created, in the year 1791, it was not even made, by its charter, a place of deposit for the public moneys. Mr. Jefferson preferred the State banks at that time; and so declared himself in his cabinet opinion to President Washington. Mr. Gallatin deposited a part of the public moneys in the State banks during the whole of the long period that he was at the head of the treasury. At the dissolution of the first Bank of the United States, he turned over all the public moneys which he held in deposit to these banks, taking their obligation to pay out all the treasury warrants drawn upon them in gold and silver, if desired by the holder. When the present bank was chartered, the State banks stood upon an equal footing with the federal bank, and were placed upon an equality with it as banks of deposit, in the very charter which created the federal bank. Mr. B. was alluding to the 14th fundamental article of the constitution of the bank—the article which provided for the establishment of branches—and which presented an argument in justification of

the removal of the deposits which the adversaries of that measure most pertinaciously decline to answer. The government wanted banks of deposit, not of circulation; and by that article, the State banks are made just as much banks of deposit for the United States as the Bank of the United States is. They are put upon exact equality, so far as the federal government is concerned; for she stipulates but for one single branch of the United States Bank, and that to be placed at Washington city. As for all other branches, their establishment was made to depend—not on the will, or power, of the federal government—not on any supposed or real necessity on her part to have the use of such branches—but upon contingencies over which she had no control; contingencies depending, one upon the mere calculation of profit and loss by the bank itself, the other upon the subscriptions of stock within a State, and the application of its legislature. In these contingencies, namely, if the Bank of the United States thought it to her interest to establish branches in the States, she might do it; or, if 2,000 shares of stock was subscribed for in a State, and thereupon an application was made by the State legislature for the institution of a branch, then its establishment within the State became obligatory upon the bank. In neither contingency had the will, the power, or the necessities of the federal government, the least weight, concern, or consideration, in the establishment of the branch. If not established, and so far as the government is concerned, it might not be, then the State banks, selected by the United States Bank, and approved by the Secretary of the Treasury, were to be the banks of deposit for the federal moneys. This was an argument, Mr. B. said, in justification of the removal of the deposits, and in favor of the use of the State banks which gentlemen on the opposite side of the question—gentlemen who take so much pains to decry State banks—have been careful not to answer.

The evils of a small paper circulation, he considered among the greatest grievances that could afflict a community. The evils were innumerable, and fell almost exclusively upon those who were least able to bear them, or to guard against them. If a bank stops payment, the holders of the small notes, who are usually the working part of the community, are the last to find it out, and the first to suffer. If counterfeiting is perpetrated, it is chiefly the small notes which are selected for imitation, because they are most current among those who know the least about notes, and who are most easily made the dupes of imposition, and the victims of fraud. As the expeller of hard money, small notes were the bane and curse of a country. A nation is scarce, or abundant, in hard money, precisely in the degree in which it tolerates the lower denominations of bank notes. France tolerates no note less than $100; and has a gold and silver circulation of 350 millions of dollars. England tolerates no note of less than $25; and has a gold and silver circulation of 130 millions of dollars: in the United States, where $5 is the minimum size of the federal bank notes, the whole specie circulation, including what is in the banks, does not amount to thirty millions of dollars. To increase the quantity of hard money in the United States, and to supply the body of the people with an adequate specie currency to serve for their daily wants, and ordinary transactions, the bank note circulation below twenty dollars, ought to be suppressed. If Congress could pass a law to that effect, it ought to bed one; but it cannot pass such a law: it has no constitutional power to pass it. Congress can, however, do something else, which will, in time, effectually put down such a currency. It can discard it, and disparage it. It can reject it from all federal payments. It can reject the whole circulation of any bank that will continue to issue small notes. Their rejection from all federal payments, would check their currency, and confine the orbit of their circulation to the immediate neighborhood of the issuing bank. The bank itself would find but little profit from issuing them—public sentiment would come to the aid of federal policy. The people of the States, when countenanced and sustained by the federal government, would indulge their natural antipathy and honest detestation of a small paper currency. They would make war upon all small notes. The State legislatures would be under the control of the people; and the States that should first have the wisdom to limit their paper circulation to a minimum of twenty dollar bills, would immediately fill up with gold and silver. The common currency would be entirely metallic; and there would be a broad and solid basis for a superstructure of large notes; while

the States which continued to tolerate the small notes, would be afflicted with all the evils of a most pestilential part of the paper system,—small notes, part counterfeit, part uncurrent, half worn out; and all incapable of being used with any regard to a beneficial economy. Mr. B. went on to depict the evils of a small note currency, which he looked upon as the bane and curse of the laboring part of the community, and the reproach and opprobrium of any government that tolerated it. He said that the government which suffered its currency to fall into such a state that the farmer, the artisan, the market man, the day laborer, and the hired servant, could only be paid in small bank notes, was a government which abdicated one of its most sacred duties; and became an accomplice on the part of the strong in the oppression of the weak.

Mr. B. placed great reliance upon the restoration of the gold currency for putting down a small note circulation. No man would choose to carry a bundle of small bank notes in his pocket, even new and clean ones, much less old, ragged, and filthy ones, when he could get gold in their place. A limitation upon the receivability of these notes, in payment of federal dues, would complete their suppression. Mr. B. did not aspire to the felicity of seeing as fine a currency in the United States as there is in France, where there was no bank note under five hundred francs, and where there was a gold and silver circulation at the rate of eleven dollars a head for each man, woman, and child, in the kingdom, namely, three hundred and fifty millions of dollars for a population of thirty-two millions of souls; but he did aspire to the comparative happiness of seeing as good curreney established for ourselves, by ourselves, as our old fellow-subjects—the people of old England—now possess from their king, lords, and commons. They —he spoke of England proper—had no bank note less than five pounds sterling, and they possessed a specie circulation (of which three-fourths was gold) at the rate of about nine dollars a head, men, women, children (even paupers) included; namely, about one hundred and thirty millions for a population of fourteen millions. He, Mr. B., must be allowed to aspire to the happiness of possessing, and in his sphere to labor to acquire, as good a circulation as these English have; and that would be an immeasurable improvement upon our present condition. We have local bank notes of one, two, three, four dollars; we have federal bank notes of five and ten dollars—the notes of those English who are using gold at home while we are using their paper here:—we have not a particle of gold, and not more silver than at the rate of about two dollars a head, men, women, children (even slaves) included; namely, about thirty millions of silver for a population of thirteen millions. Mr. B. believed there was not upon the face of the earth, a country whose actual currency was in a more deplorable condition than that of the United States was at present; the bitter fruit of that fatal paper system which was brought upon us, with the establishment of the first Bank of the United States in 1791, and which will be continued upon us until the citadel of that system—the Bastile of paper money, the present Bank of the United States,—shall cease to exist.

Mr. B. said, that he was not the organ of the President on this floor—he had no authority from the President to speak his sentiments to the Senate. Even if he knew them, it would be unparliamentary, and irregular, to state them. There was a way for the Senate to communicate with the President, which was too well known to every gentleman to require any indication from him. But he might be permitted to suggest—in the absence of all regular information —that if any Senator wished to understand, and to comment upon, the President's opinions on currency, he might, perhaps, come something nearer to the mark, by commenting on what he (Mr. B.) had been saying, than by having recourse to the town meeting reports of inimical bank committees.

CHAPTER CVI.

ATTEMPTED INVESTIGATION OF THE BANK OF THE UNITED STATES.

The House of Representatives had appointed a select committee of its members to investigate the affairs of the Bank of the United States—seven in number, and consisting of Mr. Francis Thomas, of Maryland; Mr. Edward Everett, of Massachusetts; Mr. Henry A. Muhlenberg, of

Pennsylvania; Mr. John Y. Mason, of Virginia; Mr. W. W. Ellsworth, of Connecticut; Mr. Abijah Mann, Jr. of New-York; Mr. Robert T. Lytle, of Ohio. The authority under which the committee acted, required them to ascertain: 1. The causes of the commercial embarrassment, and the public distress complained of in the numerous distress memorials presented to the two Houses during the session; and whether the bank had been any way instrumental, through its management or money, in producing the distress and embarrassment, of which so much complaint was made. 2. To inquire whether the charter of the bank had been violated; and what corruptions and abuses, if any, had existed in its management. 3. To inquire whether the bank had used its corporate power, or money, to control the press, to interpose in politics, or to influence elections. The authority conferred upon the committee was ample for the execution of these inquiries. It was authorized to send for persons and papers; to summon and examine witnesses on oath; to visit, if necessary, the principal bank, and its branches; to inspect the books, correspondence and accounts of the bank, and other papers connected with its management. The right of the House to make this investigation was two-fold: *first*, under the twenty-third article of the charter: *secondly*, as the founder of the corporation; to whom belongs, in law language, the right to "visit" the institution it has founded; which "visiting" is for examination—as a bishop "visits" his diocese—a superintendent "visits" the works and persons under his care; not to see them, but to examine into their management and condition. There was also, a *third* right of examination, resulting from the act of the corporation; it was again soliciting a re-charter, and was bound to show that the corporators had used their actual charter fairly and legally before it asked for another. And, *fourthly*, there was a further right of investigation, still resulting from its conduct. It denied all the accusations brought against it by the government directors, and brought before Congress by the Secretary of the Treasury; and joined issue upon those accusations in a memorial addressed to the two Houses of Congress. To refuse examination under these circumstances would be shrinking from the issue which itself had joined. The committee proceeded to Philadelphia, and soon found that the bank did not mean to submit to an examination. Captious and special pleading objections were made at every step, until attempts on one side and objections on the other ended in a total refusal to submit their books for inspection, or themselves for an examination. The directors had appointed a company of seven to meet the committee of the House—a procedure unwarranted by any right or usage, and offensive in its pretentious equality; but to which the committee consented, at first, from a desire to do nothing to balk the examination. That corporation committee was to sit with them, in the room in the bank assigned for the examination; and took care always to preoccupy it before the House committee arrived; and to act as if at home, receiving guests. The committee then took a room in a hotel, and asked to have the bank books sent to them; which was refused. They then desired to have the books subjected to their inspection in the bank itself; in which request they were baffled, and defeated. The bank committee required written specification of their points of inquiry, either in examining a book, or asking a question—that it might judge its legality; which they confined to mere breaches of the charter. And when the directors were summoned to answer questions, they refused to be sworn, and excused themselves on the ground of being parties to the proceeding. Some passages from the committee's report will show to what extent this higgling and contumacy was carried by this corporation—deriving its existence from Congress, and endeavoring to force a renewed charter from it while refusing to show how it had used the first one. Thus:

"On the 23d of April, their chairman addressed to the President of the bank, a communication, inclosing a copy of the resolution of the House of Representatives, and notifying him of the readiness of the committee to visit the bank on the ensuing day, at any hour agreeable to him. In reply, the President informed the committee that the papers thus received should be submitted to the board of directors, at a special meeting to be called for that purpose. It appears, in the journal of the proceedings of the committee, herewith presented to the House, that this was done, and that the directors appointed a committee of seven of their board, to receive the committee of the House of Representatives, and to offer for their inspection such books and papers of the bank, as may be necessary to exhibit the proceedings of the corporation,

according to the requirement of the charter. In the letter of John Sergeant, Esq., as chairman of the committee of directors communicating the proceedings of the board, he says that he was directed to inform the chairman of this committee that the committee of the directors 'will immediately direct the necessary arrangements to be made for the accommodation of the committee of the House of Representatives,' and would attend at the bank to receive them the next day, at eleven o'clock. Your committee attended, and were received by the committee of directors.

"Up to this period, nothing had occurred to justify the belief that a disposition was felt, on the part of the managers of the bank, to embarrass the proceedings of the committee, or have them conducted differently from those of the two preceding committees of investigation. On assembling, however, the next morning, at the bank, they found the room which had been offered for their accommodation, preoccupied by the committee of the board, with the president of the bank, as an *ex officio* member, claiming the right to be present at the investigations and examinations of this committee. This proceeding the committee were not prepared to expect. When the appointment of the committee of seven was first made, it was supposed that that measure, however designed, was not well calculated to facilitate the examination.

"With a previous determination to be present when their books were to be inspected, they could have waited to avow it until these books were called for, and the attempt made to inspect them in their absence. These circumstances are now reviewed, because they then excited an apprehension, which the sequel formed into conviction, that this committee of directors had been appointed to supervise the acts and doings of your committee, and to limit and restrain their proceedings, not according to the directions contained in the resolution of the House, but the will and judgment of the board of directors. Your committee have chosen to ascribe this claim of the committee of directors to sit conjointly with them, to the desire to prevent them from making use of the books and papers, for some of the purposes pointed out by the resolution of the House. They are sensible that this claim to be present at all examinations, avowed prematurely, and subsequently persisted in with peculiar pertinacity, could be attributed to very different motives; but respect for themselves, and respect for the gentlemen who compose the committee of directors, utterly forbids the ascription to them of a feeling which would merit compassion and contempt much more than resentment.

"This novel position, voluntarily and deliberately taken by the committee of the directors, predicated on an idea of equality of rights with your committee, under your resolution, rendered it probable, and in some measure necessary, that your committee should express its opinions of the relative rights of the corporation and the House of Representatives. To avoid all misunderstanding and future misrepresentations, it was desirable that each question should be decided separately. Contemplating an extended investigation, but unwilling that an apprehension should exist of improper disclosures being made of the transactions of the bank and its customers your committee, following the example of the committee of 1832, adopted a resolution declaring that their proceedings should be confidential, until otherwise ordered by the committee, and also a resolution that the committee would conduct its investigations 'without the presence of any person not required or invited to attend.' A copy of these resolutions was furnished to the committee of directors, in the hope that the exclusive control of a room at the bank, during its hours of business, would thereafter be conceded to your committee, while the claim of the committee of directors to be present when the books were submitted for inspection, should be postponed for decision, when the books were called for and produced by them.

"On the 28th ult. this committee assembled at the banking house, and again found the room they expected to find set apart for their use, preoccupied by the committee of directors, and others, officers of the bank. And instead of such assurances as they had a right to expect, they received copies of two resolutions adopted by the board of directors, in which they were given to understand that their continued occupation of the room must be considered a favor and not a matter of right; and in which the board indulge in unjust commentaries on the resolution of the House of Representatives; and intimate an apprehension that your committee design to make their examinations secret, partial, unjust, oppressive and contrary to common right."

On receiving this offensive communication, manifestly intended to bring on a quarrel, the committee adopted a resolution to sit in a room of their hotel, and advised the bank accordingly; and required the president and directors to submit the books to their inspection in the room so chosen, at a day and hour named. To this the directors answered that they could not comply; and the committee, desirous to do all they could to accomplish the investigation committed to them, then gave notice that they would attend at the bank on a named day and hour to inspect the books in the bank itself—either at the counter, or in a room. Arriving at the appointed time, and asking to see the books, they were positively refused, reasons in writing being assigned for the refusal. They then made a written request to see certain books specifically and for a specified purpose, namely, to ascertain

the truth of the report of the government directors in using the money and power of the bank in politics, in elections, or in producing the distress. The manner in which this call was treated must be given in the words of the report itself; thus:

"Without giving a specific answer to these calls for books and papers, the committee of directors presented a written communication, which was said to be 'indicative of the mode of proceeding deemed right by the bank.'

"The committee of the board in that communication, express the opinion, that the inquiry can only be rightfully extended to alleged violations of the charter, and deny virtually the right of the House of Representatives to authorize the inquiries required in the resolution.

"They also required of the committee of investigation, 'when they asked for books and papers, to state specifically in writing, the purposes for which they are proposed to be inspected; and if it be to establish a violation of the charter, then to state specifically in writing, what are the alleged or supposed violations of charter, to which the evidence is alleged to be applicable.'

"To this extraordinary requirement, made on the supposition that your committee were charged with the duty of crimination, or prosecution for criminal offence, and implying a right on the part of the directors to determine for what purposes the inspection should be made, and what books or papers should be submitted to inspection, your committee replied, that they were not charged with the duty of criminating the bank, its directors, or others; but simply to inquire, amongst other things, whether any prosecution in legal form should be instituted, and from the nature of their duties, and the instructions of the House of Representatives, they were not bound to state specifically in writing any charges against the bank, or any special purpose for which they required the production of the books and papers for inspection."

The committee then asked for copies of the accounts and entries which they wished to see, and were answered that it would require the labor of two clerks for ten months to make them out; and so declined to give the copies. The committee finding that they could make nothing out of books and papers, determined to change their examination of things into that of persons; and for that purpose had recourse to the subpœnas, furnished by the House; and had them served by the United States marshal on the president and directors. This subpœna, which contained a clause of *duces tecum*, with respect to the books. was so far obeyed as to bring the directors in person before the committee; and so far disobeyed as to bring them without the books, and so far exceeded as to bring them with a written refusal to be sworn—for reasons which they stated. But this part deserves to be told in the language of the report; which says:

"Believing they had now exhausted, in their efforts to execute the duty devolved upon them, all reasonable means depending solely upon the provisions of the bank charter, to obtain the inspection of the books of this corporation, your committee were at last reluctantly compelled to resort to the subpœnas which had been furnished to them under the seal of this House, and attested by its clerk. They, thereby, on the 9th inst. directed the marshal of the eastern district of Pennsylvania to summon Nicholas Biddle, president, and thirteen other persons, directors of the bank, to attend at their committee room, on the next day, at twelve o'clock, at noon, to testify concerning the matters of which your committee were authorized to inquire, and to bring with them certain books therein named for inspection. The marshal served the summons in due form of law, and at the time appointed, the persons therein named appeared before the committee and presented a written communication signed by each of them, as the answer of each to the requirements of the subpœna, which is in the appendix to this report. In this paper they declare 'that they do not produce the books required, because they are not in the custody of either of us, but as has been heretofore stated, of the board,' and add, 'considering that as corporators and directors, we are parties to the proceeding—we do not consider ourselves bound to testify, and therefore respectfully decline to do so.'"

This put an end to the attempted investigation. The committee returned to Washington—made report of their proceedings, and moved: "That the speaker of this House do issue his warrant to the sergeant-at-arms, to arrest Nicholas Biddle, president—Manuel Eyre, Lawrence Lewis, Ambrose White, Daniel W. Cox, John Holmes, Charles Chauncey, John Goddard, John R. Neff, William Platt, Matthew Newkirk, James C. Fisher, John S. Henry, and John Sergeant, directors—of the Bank of the United States, and bring them to the bar of this House to answer for the contempt of its lawful authority." This resolve was not acted upon by the House; and the directors had the satisfaction to enjoy a negative triumph in their contempt of the House, flagrant as that contempt was upon its own showing, and still more so upon its contrast with the conduct of the same bank

(though under a different set of directors), in the year 1819. A committee of investigation was then appointed, armed with the same powers which were granted to this committee of the year 1834, and the directors of that time readily submitted to every species of examination which the committee chose to make. They visited the principal bank at Philadelphia, and several of its branches. They had free and unrestrained access to the books and papers of the bank. They were furnished by the officers with all the copies and extracts they asked for. They summoned before them the directors and officers of the bank, examined them on oath, took their testimony in writing—and obtained full answers to all their questions, whether they implied illegalities violative of the charter, or abuses, or mismanagement, or mistakes and errors.

CHAPTER CVII.

MR. TANEY'S REPORT ON THE FINANCES—EXPOSURE OF THE DISTRESS ALARMS—END OF THE PANIC.

About the time when the panic was at its height, and Congress most heavily assailed with distress memorials, the Secretary of the Treasury was called upon by a resolve of the Senate for a report upon the finances—with the full belief that the finances were going to ruin, and that the government would soon be left without adequate revenue, and driven to the mortifying resource of loans. The call on the Secretary was made early in May, and was answered the middle of June; and was an utter disappointment to those who called for it. Far from showing the financial decline which had been expected, it showed an increase in every branch of the revenue! and from that authentic test of the national condition, it was authentically shown that the Union was prosperous! and that the distress, of which so much was heard, was confined to the victims of the United States Bank, so far as it was real; and that all beyond that was fictitious and artificial—the result of the machinery for organizing panic, oppressing debtors, breaking up labor, and alarming the timid. When the report came into the Senate, the reading of it was commenced at the table of the Secretary, and had not proceeded far when Mr. Webster moved to cease the reading, and send it to the Committee on Finance—that committee in which a report of that kind could not expect to find either an early or favorable notice. We had expected a motion to get rid of it, in some quiet way, and had prepared for whatever might happen. Mr. Taney had sent for me. the day before it came in; read it over with me; showed me all the tables on which it was founded; and prepared me to sustain and emblazon it: for it was our intention that such a report should go to the country, not in the quiet, subdued tone of a State paper, but with all the emphasis, and all the challenges to public attention, which the amplifications, the animation, and the fire and freedom which the speaking style admitted. The instant, then, that Mr. Webster made his motion to stop the reading, and refer the report to the Finance Committee, Mr. Benton rose, and demanded that the reading be continued: a demand which he had a right to make, as the rules gave it to every member. He had no occasion to hear it read, and probably heard nothing of it; but the form was necessary, as the report was to be the text of his speech. The instant it was done, he rose and delivered his speech, seizing the circumstance of the interrupted reading to furnish th brief exordium, and to give a fresh and im promptu air to what he was going to say. The following is the speech:

Mr. Benton rose, and said that this report was of a nature to deserve some attention, before it left the chamber of the Senate, and went to a committee, from which it might not return in time for consideration at this session. It had been called for under circumstances which attracted attention, and disclosed information which deserved to be known. It was called for early in May, in the crisis of the alarm operations, and with confident assertions that the answer to the call would prove the distress and the suffering of the country. It was confidently asserted that the Secretary of the Treasury had over-estimated the revenues of the year; that there would be a great falling off—a decline—a bankruptcy; that confidence was destroyed—enterprise checked—industry paralyzed—commerce suspended! that the direful act of one man, in one dire order, had changed the face of the country, from a scene of unparalleled prosperity to a scene of unparalleled

desolation! that the canal was a solitude, the lake a desert waste of waters, the ocean without ships, the commercial towns deserted, silent, and sad; orders for goods countermanded; foreign purchases stopped! and that the answer of the Secretary would prove all this, in showing the falsity of his own estimates, and the great decline in the revenue and importations of the country. Such were the assertions and predictions under which the call was made, and to which the public attention was attracted by every device of theatrical declamation from this floor. Well, the answer comes. The Secretary sends in his report, with every statement called for. It is a report to make the patriot's heart rejoice! full of high and gratifying facts; replete with rich information; and pregnant with evidences of national prosperity. How is it received—how received by those who called for it? With downcast looks, and wordless tongues! A motion is even made to stop the reading! to stop the reading of such a report! called for under such circumstances; while whole days are given up to reading the monotonous, tautologous, and endless repetitions of distress memorials, the echo of our own speeches, and the thousandth edition of the same work, without emendation or correction! All these can be read, and printed, too, and lauded with studied eulogium, and their contents sent out to the people, freighted upon every wind; but this official report of the Secretary of the Treasury, upon the state of their own revenues, and of their own commerce, called for by an order of the Senate, is to be treated like an unwelcome and worthless intruder; received without a word—not even read—slipped out upon a motion—disposed of as the Abbé Sieyes voted for the death of Louis the Sixteenth: *mort sans phrase!* death, without talk! But he, Mr. B., did not mean to suffer this report to be dispatched in this unceremonious and compendious style. It had been called for to be given to the people, and the people should hear of it. It was not what was expected, but it is what is true, and what will rejoice the heart of every patriot in America. A pit was dug for Mr. Taney; the diggers of the pit have fallen into it; the fault is not his; and the sooner they clamber out, the better for themselves. The people have a right to know the contents of this report, and know them they shall; and if there is any man in this America, whose heart is so constructed as to grieve over the prosperity of his country, let him prepare himself for sorrow; for the proof is forthcoming, that never, since America had a place among nations, was the prosperity of the country equal to what it is at this day!

Mr. B. then requested the Secretary of the Senate to send him the report, and comparative statements; which being done, Mr. B. opened the report, and went over the heads of it to show that the Secretary of the Treasury had not over-estimated the revenue of the year, as he had been charged, and as the report was expected to prove: that the revenue was, in fact, superior to the estimate; and that the importations would equal, if not exceed, the highest amount that they had ever attained.

To appreciate the statements which he should make, Mr. B. said it was necessary for the Senate to recollect that the list of dutiable articles was now greatly reduced. Many articles were now free of duty, which formerly paid heavy duties; many others were reduced in duty; and the fair effect of these abolitions and reductions would be a diminution of revenue even without a diminution of imports; yet the Secretary's estimate, made at the commencement of the session, was more than realized, and showed the gratifying spectacle of a full and overflowing treasury, instead of the empty one which had been predicted; and left to Congress the grateful occupation of further reducing taxes, instead of the odious task of borrowing money, as had been so loudly anticipated for six months past. The revenue accruing from imports in the first quarter of the present year, was 5,344,540 dollars; the payments actually made into the treasury from the custom-houses for the same quarter, were 4,435,386 dollars; and the payments from lands for the same time, were 1,398,206 dollars. The two first months of the second quarter were producing in a full ratio to the first quarter; and the actual amount of available funds in the treasury on the 9th day of this month, was eleven millions, two hundred and forty-nine thousand, four hundred and twelve dollars. The two last quarters of the year were always the most productive. It was the time of the largest importations of foreign goods which pay most duty—the woollens—and the season, also, for the largest sale of public lands. It is well believed that the estimate will be more largely ex

ceeded in those two quarters than in the two first; and that the excess for the whole year, over the estimate, will be full two millions of dollars. This, Mr. B. said, was one of the evidences of public prosperity which the report contained, and which utterly contradicted the idea of distress and commercial embarrassment which had been propagated, from this chamber, for the last six months.

Mr. B. proceeded to the next evidence of commercial prosperity; it was the increased importations of foreign goods. These imports, judging from the five first months, would be seven millions more than they were two years ago, when the Bank of the United States had seventy millions loaned out; and they were twenty millions more than in the time of Mr. Adams's administration. At the rate they had commenced, they would amount to one hundred and ten millions for the year. This will exceed whatever was known in our country. The imports, for the time that President Jackson has served, have regularly advanced from about $74,000,000 to $108,000,000. The following is the statement of these imports, from which Mr. B. read:

1829	$74,492,527
1830 . . .	70,876,920
1831	103,191,124
1832 . . .	101,029,266
1833	108,118,311

Mr. B. said that the imports of the last year were greater in proportion than in any previous year; a temporary decline might reasonably have been expected; such declines always take place after excessive importations. If it had occurred now, though naturally to have been expected, the fact would have been trumpeted forth as the infallible sign—the proof positive—of commercial distress, occasioned by the fatal removal of the deposits. But, as there was no decline, but on the contrary, an actual increase, he must claim the evidence for the other side of the account, and set it down as proof positive that commerce is not destroyed; and, consequently, that the removal of the deposits did not destroy commerce.

The next evidence of commercial prosperity which Mr. B. would exhibit to the Senate, was in the increased, and increasing number of ship arrivals from foreign ports. The number of arrivals for the month of May, in New-York, was two hundred and twenty-three, exceeding by thirty-six those of the month of April, and showing not only a great, but an increasing activity in the commerce of that great emporium—he would not say of the United States, or even of North America—but he would call it that great emporium of the two Americas, and of the New World; for the goods imported to that place, were thence distributed to every part of the two Americas, from the Canadian lakes to Cape Horn.

A third evidence of national prosperity was in the sales of the public lands. Mr. B. had, on a former occasion, adverted to these sales, so far as the first quarter was concerned; and had shown, that instead of falling off, as had been predicted on this floor, the revenue from the sales of these lands had actually doubled, and more than doubled, what they were in the first quarter of 1833. The receipts for lands for that quarter, were $668,526; for the first quarter of the present year they were $1,398,206; being two to one, and $60,000 over! The receipts for the two first months of the second quarter, were also known, and would carry the revenue from lands, for the first five months of this year, to two millions of dollars; indicating five millions for the whole year; an enormous amount, from which the people of the new States ought to be, in some degree, relieved, by a reduction in the price of lands. Mr. B. begged in the most emphatic terms, to remind the Senate, that at the commencement of the session, the sales of the public lands were selected as one of the criterions by which the ruin and desolation of the country were to be judged. It was then predicted, and the prediction put forth with all the boldness of infallible prophecy, that the removal of the deposits would stop the sales of the public lands; that money would disappear, and the people have nothing to buy with; that the produce of the earth would rot upon the hands of the farmer. These were the predictions; and if the sales had really declined, what a proof would immediately be found in the fact to prove the truth of the prophecy, and the dire effects of changing the public moneys from one set of banking-houses to another! But there is no decline; but a doubling of the former product; and a fair conclusion thence deduced that the new States, in the interior, are as prosperous as the old ones, on the sea-coast.

Having proved the general prosperity of the country from these infallible data—flourishing revenue—flourishing commerce—increased arrivals of ships—and increased sales of public lands, Mr. B. said that he was far from denying that actual distress had existed. He had admitted the fact of that distress heretofore, not to the extent to which it was charged, but to a sufficient extent to excite sympathy for the sufferers; and he had distinctly charged the whole distress that did exist to the Bank of the United States, and the Senate of the United States—to the screw-and-pressure operations of the bank, and the alarm speeches in the Senate. He had made this charge; and made it under a full sense of the moral responsibility which he owed to the people, in affirming any thing so disadvantageous to others, from this elevated theatre. He had, therefore, given his proofs to accompany the charge; and he had now to say to the Senate, and through the Senate to the people, that he found new proofs for that charge in the detailed statements of the accruing revenue, which had been called for by the Senate, and furnished by the Secretary of the Treasury.

Mr. B. said he must be pardoned for repeating his request to the Senate, to recollect how often they had been told that trade was paralyzed; that orders for foreign goods were countermanded; that the importing cities were the pictures of desolation; their ships idle; their wharves deserted; their mariners wandering up and down. Now, said Mr. B., in looking over the detailed statement of the accruing revenue, it was found that there was no decline of commerce, except at places where the policy and power of the United States Bank was predominant! Where that power or policy was predominant, revenue declined; where it was not predominant, or the policy of the bank not exerted, the revenue increased; and increased fast enough to make up the deficiency at the other places. Mr. B. proceeded to verify this statement by a reference to specified places. Thus, at Philadelphia, where the bank holds its seat of empire, the revenue fell off about one third; it was $797,316 for the first quarter of 1833, and only $542,498 for the first quarter of 1834. At New-York, where the bank has not been able to get the upper hand, there was an increase of more than $120,000; the revenue there, for the first quarter of 1833, was $3,122,166; for the first of 1834, it was $3,249,786. At Boston, where the bank is again predominant, the revenue fell off about one third; at Salem, Mass., it fell off four fifths. At Baltimore, where the bank has been defeated, there was an increase in the revenue of more than $70,000. At Richmond, the revenue was doubled, from $12,034 to $25,810. At Charleston, it was increased from $69,503 to $102,810. At Petersburg, it was slightly increased; and throughout all the region south of the Potomac, there was either an increase, or the slight falling off which might result from diminished duties without diminished importations. Mr. B. said he knew that bank power was predominant in some of the cities of the South; but he knew, also, that the bank policy of distress and oppression had not been practised there. That was not the region to be governed by the scourge. The high mettle of that region required a different policy: gentleness, conciliation, coaxing! If the South was to be gained over by the bank, it was to be done by favor, not by fear. The scourge, though so much the most congenial to the haughty spirit of the moneyed power, was only to be applied where it would be submitted to; and, therefore, the whole region south of the Potomac, was exempted from the lash.

Mr. B. here paused to fix the attention of the Senate upon these facts. Where the power of the bank enabled her to depress commerce and sink the revenue, and her policy permitted her to do it, commerce was depressed; and the revenue was sunk, and the prophecies of the distress orators were fulfilled; but where her power did not predominate, or where her policy required a different course, commerce increased, and the revenue increased; and the result of the whole is, that New-York and some other anti-bank cities have gained what Philadelphia and other bank cities have lost; and the federal treasury is just as well off, as if it had got its accustomed supply from every place.

This view of facts, Mr. B. said, must fasten upon the bank the odium of having produced all the real commercial distress which has been felt. But at one point, at New Orleans, there was further evidence to convict her of wanton and wicked oppression. It was not in the Secretary's reports, but it was in the weekly returns

of the bank; and showed that, in the beginning of March, that institution had carried off from her branch in New Orleans, the sum of about $800,000 in specie, which it had been collecting all the winter, by a wanton curtailment, under the pretext of supplying the amount of the deposits taken from her at that place. These $800,000 dollars were collected from the New Orleans merchants in the very crisis of the arrival of Western produce. The merchants were pressed to pay debts, when they ought to have been accommodated with loans. The price of produce was thereby depressed; the whole West suffered from the depression; and now it is proved that the money was not wanted to supply the place of the deposits, but was sent to Philadelphia, where there was no use for it, the bank having more than she can use; and that the whole operation was a wanton and wicked measure to coerce the West to cry out for a return of the deposits, and a renewal of the charter, by attacking their commerce in the market of New Orleans. This fact, said Mr. B., would have been proved from the books of the bank, if they had been inspected. Failing in that, the proof was intelligibly found in the weekly returns.

Mr. B. took up another table to prove the prosperity of the country: it was in the increase of specie since the programme for the distress had been published. That programme dated from the first day of October last, and the clear increase since that time is the one half of the whole quantity then in the United States. The imports had been $11,128,291; the exports only $998,761.

Mr. B. remarked, upon this statement, that it presented a clear gain of more than ten millions of dollars. He was of opinion that two millions ought to be added for sums not entered at the custom-house, which would make twelve millions; and added to the six millions of 1833, would give eighteen millions of specie of clear gain to the country, in the last twenty months. This, he said was prosperity. It was wealth itself; and besides, it showed that the country was not in debt for its large importations, and that a larger proportion of foreign imports now consisted of specie than was ever known before. Mr. B. particularized the imports and exports of gold; how the former had increased, and the latter diminished, during the last few months; and said that a great amount of gold, both foreign and domestic, was now waiting in the country to see if Congress would raise gold to its fair value. If so raised, this gold would remain, and enter into circulation; if not, it would immediately go off to foreign countries; for gold was not a thing to stay where it was undervalued. He also spoke of silver, and said that it had arrived without law, but could not remain without law. Unless Congress passed an act to make it current, and that at full value as money, and not at the mint value, as bullion, it would go off.

Mr. B. had a further view to give of the prosperity of the country, and further evidence to show that all the distress really suffered was factitious and unnatural. It was in the great increase of money in the United States, during the last year and a half. He spoke of money; not paper promises to pay money, but the thing itself—real gold and silver—and affirmed that there was a clear gain of from eighteen to twenty millions of specie, within the time that he had mentioned. He then took up the custom-house returns to verify this important statement, and to let the people see that the country was never so well off for money as at the very time that it was proclaimed to be in the lowest state of poverty and misery. He first showed the imports and exports of specie and bullion for the year ending the 30th of September, 1833. It was as follows:

Year ending September 30. 1833.

	Imports.	Exports.
Gold bullion,	$48,267	$26,775
Silver do.	297,840	
Gold coin,	563,585	495,890
Silver do.	6,160,676	1,722,196
	$7,070,368	$2,244,861

Mr. B. having read over this statement, remarked upon it, that it presented a clear balance of near five millions of specie in favor of the United States on the first day of October last, without counting at least another million which was brought by passengers, and not put upon the custom-house books. It might be assumed, he said, that there was a clear accession of six millions of specie to the money of the United States, on the morning of that very day which had been pitched upon by all the distress ora-

tors in the country, to date the ruin and desolation of the country.

Mr. B. then showed a statement of the imports and exports of specie and bullion, from the first of October, 1833, to the 11th of June, instant.

Mr. B. recapitulated the evidences of national prosperity—increased imports—revenue from customs exceeding the estimate—increased revenue from public lands—increased amount of specie—above eleven millions of available funds now in the treasury—domestic and foreign commerce active—the price of produce and property fair and good—labor every where finding employment and reward—more money in the country than ever was in it at any one time before—the numerous advertisements for the purchase of slaves, in the papers of this city, for the Southern market, which indicated the high price of Southern products—and affirmed his conscientious belief, that the country was more prosperous at this time than at any period of its existence; and inveighed in terms of strong indignation against the arts and artifices, which for the last six months had disturbed and agitated the country, and done serious mischief to many individuals. He regretted the miscarriage of the attempt to examine the Bank of the United States, which he believed would have completed the proof against that institution for its share in getting up an unnatural and factitious scene of distress, in the midst of real prosperity. But he did not limit his invective to the bank, but came directly to the Senate, and charged a full share upon the theatrical distress speeches, delivered upon the floor of the Senate, in imitation of Volney's soliloquy over the ruins of Palmyra. He repeated some passages from the most affecting of these lamentations over the desolation of the country, such as the Senate had been accustomed to hear about the time of the New-York and Virginia elections. "The canal a solitude! The lake a desert waste of waters! That populous city lately resounding with the hum of busy multitudes, now silent and sad! A whole nation, in the midst of unparalleled prosperity, and Arcadian felicity, suddenly struck into poverty, and plunged into unutterable woe! and all this by the direful act of one wilful man!" Such, said Mr. B., were the lamentations over the ruins, not of the Tadmor in the desert, but of this America, whose true condition you have just seen exhibited in the faithful report of the Secretary of the Treasury. Not even the "baseless fabric of a vision" was ever more destitute of foundation, than those lamentable accounts of desolation. The lamentation has ceased; the panic has gone off; would to God he could follow out the noble line of the poet, and say, "leaving not a wreck behind." But he could not say that. There were wrecks! wrecks of merchants in every city in which the bank tried its cruel policy, and wrecks of banks in this district, where the panic speeches fell thickest and loudest upon the ears of an astonished and terrified community!

But, continued Mr. B., the game is up; the alarm is over; the people are tired of it; the agitators have ceased to work the engine of alarm. A month ago he had said it was "the last of pea-time" with these distress memorials; he would now use a bolder figure, and say, that the Secretary's report, just read, had expelled forever the ghost of alarm from the chamber of the Senate. All ghosts, said Mr. B., are afraid of the light. The crowing of the cock—the break of day—remits them all, the whole shadowy tribe, to their dark and dreary abodes. How then can this poor ghost of alarm, which has done such hard service for six months past, how can it stand the full light, the broad glare, the clear sunshine of the Secretary's report? "Alas, poor ghost!" The shade of the "noble Dane" never quit the stage under a more inexorable law than the one which now drives thee away! This report, replete with plain facts, and luminous truths, puts to flight the apparition of distress, breaks down the whole machinery of alarm, and proves that the American people are, at this day, the most prosperous people on which the beneficent sun of heaven did ever shine!

Mr. B. congratulated himself that the spectre of distress could never be made to cross the Mississippi. It made but slow progress any where in the Great Valley, but was balked at the King of Floods. A letter from St. Louis informed him that an attempt had just been made to get up a distress meeting in the town of St. Louis; but without effect. The officers were obtained, and according to the approved rule of such meetings, they were converts from Jacksonism; but there the distress proceedings stopped, and took another turn. The farce

could not be played in that town. The actors would not mount the stage.

Mr. B. spoke of the circulation of the Bank of the United States, and said that its notes might be withdrawn without being felt or known by the community. It contributed but four millions and a quarter to the circulation at this time. He verified this statement by showing that the bank had twelve millions and a quarter of specie in its vaults, and but sixteen millions and a half of notes in circulation. The difference was four millions and a quarter; and that was the precise amount which that gigantic institution now contributed to the circulation of the country! Only four millions and a quarter. If the gold bill passed, and raised gold sixteen to one, there would be more than that amount of gold in circulation in three months. The foreign coin bill, and the gold bill, would give the country many dollars in specie, without interest, for each paper dollar which the bank issues, and for which the country pays so dearly. The dissolution of the bank would turn out twelve millions and a quarter of specie, to circulate among the people; and the sooner that is done the better it will be for the country.

The Bank is now a nuisance, said Mr. B. With upwards of twelve millions in specie, and less than seventeen millions in circulation, and only fifty-two millions of loans, it pretends that it cannot lend a dollar, not even to business men, to be returned in sixty days; when, two years ago, with only six millions of specie and twenty-two millions of circulation, it ran up its loans to seventy millions. The president of the bank then swore, that all above six millions of specie was a surplus! How is it now, with near double as much specie, and five millions less of notes out, and twelve millions less of debt? The bank needs less specie than any other banking institution, because its notes are receivable, by law, in all federal payments; and from that circumstance alone would be current, at par, although the bank itself might be wholly unable to redeem them. Such a bank is a nuisance. It is the dog in the manger. It might lend money to business men, at short dates, to the last day of its existence; yet the signs are for a new pressure; a new game of distress for the fall elections in Pennsylvania, New-York, and Ohio. If that game should be attempted, Mr. B. said, it would have to be done withou excuse, for the bank was full of money; without pretext, for the deposit farce is over; without the aid of panic speeches, for the Senate will not be in session.

Mr. B. said, that among the strange events which took place in this world, nothing could be more strange than to find, in our own country, and in the nineteenth century, any practical illustration of the ancient doctrine of the metempsychosis. Stranger still, if that doctrine should be so far improved, as to take effect in soulless bodies; for, according to the founders of the doctrine, the soul alone could transmigrate. Now, corporations had no souls; that was law, laid down by all the books: that all corporations, moneyed ones especially, and above all, the Bank of the United States, was most soulless. Yet the rumor was, that this bank intended to attempt the operation of effecting a transfer of her soul; and after submitting to death in her present form, to rise up in a new one. Mr. B. said he, for one, should be ready for the old sinner, come in the body of what beast it might. No form should deceive him, not even if it condescended, in its new shape, to issue from Wall-street instead of Chestnut!

A word more, and Mr. B. was done. It was a word to those gentlemen whose declarations, many ten thousand times issued from this floor, had deluded a hundred thousand people to send memorials here, certifying what those gentlemen so incontinently repeated, that the removal of the deposits had made the distress, and nothing but the restoration of the deposits, or the renewal of the charter, could remove the distress! Well! the deposits are not restored, and the charter is not renewed; and yet the distress is gone! What is the inference? Why that gentlemen are convicted, and condemned, upon their own argument! They leave this chamber to go home, self-convicted upon the very test which they themselves have established; and after having declared, for six months, upon this floor, that the removal of the deposits made the distress, and nothing but their restoration, or the renewal of the bank charter, could relieve it, and that they would sit here until the dog-days, and the winter solstice, to effect this restoration or renewal: they now go home in good time for harvest, without effecting the restoration or the renewal; and find every where, as they go the evidences of the highest prosperity which ever

blessed the land. Yes! repeated and exclaimed Mr. B. with great emphasis, the deposits are not restored—the charter is not renewed—the distress is gone—and the distress speeches have ceased! No more lamentation over the desolation of the land now; and a gentleman who should undertake to entertain the Senate again in that vein, in the face of the present national prosperity—in the face of the present report from the Secretary of the Treasury—would be stared at, as the Trojans were accustomed to stare at the frantic exhibitions of Priam's distracted daughter, while vaticinating the downfall of Troy in the midst of the heroic exploits of Hector.

At the conclusion of this speech Mr. Webster spoke a few words, signifying that foreigners might have made the importations which kept up the revenue; and Mr. Chambers, of Maryland, spoke more fully, to show that there was not time yet for the distress to work its effect nationally. Mr. Webster then varied his motion, and, instead of sending the Secretary's report to the Finance Committee, moved to lay it upon the table: which was done: and being printed, and passed into the newspapers, with the speech to emblazon it, had a great effect in bringing the panic to a close.

CHAPTER CVIII.

REVIVAL OF THE GOLD CURRENCY.

A MEASURE of relief was now at hand, before which the machinery of distress was to balk, and cease its long and cruel labors: it was the passage of the bill for equalizing the value of gold and silver, and legalizing the tender of foreign coins of both metals. The bills were brought forward in the House by Mr. Campbell P. White of New-York, and passed after an animated contest, in which the chief question was as to the true relative value of the two metals, varied by some into a preference for national bank paper. Fifteen and five-eighths to one was the ratio of nearly all who seemed best calculated, from their pursuits, to understand the subject. The thick array of speakers was on that side; and the eighteen banks of the city of New-York, with Mr. Gallatin at their head, favored that proportion. The difficulty of adjusting this value, so that neither metal should expel the other, had been the stumbling block for a great many years; and now this difficulty seemed to be as formidable as ever. Refined calculations were gone into: scientific light was sought: history was rummaged back to the times of the Roman empire: and there seemed to be no way of getting to a concord of opinion either from the lights of science, the voice of history, or the result of calculations. The author of this View had (in his speeches on the subject), taken up the question in a practical point of view, regardless of history, and calculations, and the opinions of bank officers; and looking to the actual, and equal, circulation of the two metals in different countries, he saw that this equality and actuality of circulation had existed for above three hundred years in the Spanish dominions of Mexico and South America, where the proportion was 16 to one. Taking his stand upon this single fact, as the practical test which solved the question, all the real friends of the gold currency soon rallied to it. Mr. White gave up the bill which he had first introduced, and adopted the Spanish ratio. Mr. Clowney of South Carolina, Mr. Gillet and Mr. Cambreleng of New-York, Mr. Ewing of Indiana, Mr. McKim of Maryland, and other speakers, gave it a warm support. Mr. John Quincy Adams would vote for it, though he thought the gold was over-valued; but if found to be so, the difference could be corrected hereafter. The principal speakers against it and in favor of a lower rate, were Messrs. Gorham of Massachusetts; Selden of New-York; Binney of Pennsylvania; and Wilde of Georgia. And, eventually the bill was passed by a large majority—145 to 36. In the Senate it had an easy passage. Mr. Calhoun and Webster supported it: Mr. Clay opposed it: and on the final vote there were but seven negatives: Messrs. Chambers of Maryland; Clay; Knight of Rhode Island; Alexander Porter of Louisiana; Silsbee of Massachusetts; Southard of New Jersey; Sprague of Maine.

The good effects of the bill were immediately seen. Gold began to flow into the country through all the channels of commerce: old chests gave up their hordes: the mint was busy: and in a few months, and as if by magic, a currency banished from the country for thirty years, overspread the land, and gave joy and confidence

to all the pursuits of industry. But this joy was not universal. A large interest connected with the Bank of the United States, and its subsidiary and subaltern institutions, and the whole paper system, vehemently opposed it; and spared neither pains nor expense to check its circulation, and to bring odium upon its supporters People were alarmed with counterfeits. Gilt counters were exhibited in the markets, to alarm the ignorant. The coin itself was burlesqued, in mock imitations of brass or copper, with grotesque figures, and ludicrous inscriptions —the "whole hog" and the "better currency," being the favorite devices. Many newspapers expended their daily wit in its stale depreciation. The most exalted of the paper money party, would recoil a step when it was offered to them, and beg for paper. The name of "Gold humbug" was fastened upon the person supposed to have been chiefly instrumental in bringing the derided coin into existence; and he, not to be abashed, made its eulogy a standing theme—vaunting its excellence, boasting its coming abundance, to spread over the land, flow up the Mississippi, shine through the interstices of the long silken purse, and to be locked up safely in the farmer's trusty oaken chest. For a year there was a real war of the paper against gold. But there was something that was an overmatch for the arts, or power, of the paper system in this particular, and which needed no persuasions to guide it when it had its choice: it was the instinctive feeling of the masses! which told them that money which would jingle in the pocket was the right money for them—that hard money was the right money for hard hands—that gold was the true currency for every man that had any thing true to give for it, either in labor or property: and upon these instinctive feelings gold became the avidious demand of the vast operative and producing classes.

CHAPTER CIX.

REJECTION OF MR. TANEY, NOMINATED FOR SECRETARY OF THE TREASURY.

A PRESENTIMENT of what was to happen induced the President to delay, until near the end of the session, the nomination to the Senate of Mr. Taney for Secretary of the Treasury. He had offended the Bank of the United States too much to expect his confirmation in the present temper of the Senate. He had a right to hold back the nomination to the last day of the session, as the recess appointment was valid to its end; and he retained it to the last week, not being willing to lose the able and faithful services of that gentleman during the actual session of Congress. At last, on the 23d of June, the nomination was sent in, and immediately rejected by the usual majority in all cases in which the bank was concerned. Mr. Taney, the same day resigned his place; and Mr. McClintock Young, first clerk of the treasury, remained by law acting Secretary. Mr. Benjamin Franklin Butler, of New-York, nominated for the place of attorney-general, was confirmed —he having done nothing since he came into the cabinet to subject him to the fate of his predecessor, though fully concurring with the President in all his measures in relation to the bank.

CHAPTER CX.

SENATORIAL INVESTIGATION OF THE BANK OF THE UNITED STATES.

THIS corporation had lost so much ground in the public estimation, by repulsing the investigation attempted by the House of Representatives, that it became necessary to retrieve the loss by some report in its favor. The friends of the institution determined, therefore, to have an investigation made by the Senate—by the Finance Committee of that body. In conformity to this determination Mr. Southard, on the last day of the session moved that that committee should have leave to sit during the recess of the Senate to inquire whether the Bank of the United States had violated its charter—whether it was a safe depository of the public moneys—and what had been its conduct since 1832 in regard to extension and curtailment of loans, and its general management since that time. The committee to whom this investigation was committed, consisted of Messrs. Webster, Tyler Ewing, Mangum, and Wilkins. Of this committee all, except the last named, were the opponents of the administration, friends of the

bank, its zealous advocates in all the questions between it and the government, speaking ardently in its favor, and voting with it on all questions during the session. Mr. Wilkins very properly refused to serve on the committee; and Mr. King of Alabama, being proposed in his place, also, and with equal propriety, refused to serve. This act of the Senate in thus undertaking to examine the bank after a repulse of the committee of the House of Representatives and still standing out in contempt of that House, and by a committee so composed, and so restricted, completed the measure of mortification to all the friends of the American Senate. It was deemed a cruel wound given to itself by the Senate. It was a wrong thing, done in a wrong way, and could have no result but to lessen the dignity and respectability of the Senate. The members of the committee were the advocates of the bank, and its public defenders on all the points to be examined. This was a violation of parliamentary law, as well as of the first principles of decency and propriety—the whole of which require criminatory investigations to be made, by those who make the accusations. It was to be done in vacation; for which purpose the committee was to sit in the recess—a proceeding without precedent, without warrant from any word in the constitution—and susceptible of the most abuseful and factious use. The only semblance of precedent for it was the committee of the House in 1824, on the memorial of Mr. Ninian Edwards against Mr. Crawford in that year; but that was no warrant for this proceeding. It was a mere authority to an existing committee which had gone through its examination, and made its report to the House, to continue its session after the House adjourned to take the deposition of the principal witness, detained by sickness, but on his way to the examination. This deposition the committee were to take, publish, and be dissolved; and so it was done accordingly. And even this slight continuation of a committee was obtained from the House with difficulty, and under the most urgent circumstances. Mr. Crawford was a candidate for the presidency; the election was to come on before Congress met again; Mr. Edwards had made criminal charges against him; all the testimony had been taken, except that of Mr. Edwards himself; and he had notified the committee that he was on his way to appear before them in obedience to their summons. And it was under these circumstances that the existing committee was authorized to remain in session for his arrival—to receive his testimony—publish it—and dissolve. No perambulation through the country—no indefinite session—no putting members upon Congress *per diems* and mileage from one session to another. Wrongful and abuseful in its creation, this peripatetic committee of the Senate was equally so in its composition and object. It was composed of the advocates of the bank, and its object evidently was to retrieve for that institution a part of the ground which it had lost; and was so viewed by the community. The clear-sighted masses saw nothing in it but a contrivance to varnish the bank, and the odious appellation of "whitewashing committee" was fastened upon it.

CHAPTER CXI.

DOWNFALL OF THE BANK OF THE UNITED STATES.

When the author of the Æneid had shown the opening gradeur of Rome, he deemed himself justified in departing from the chronological order of events to look ahead, and give a glimpse of the dead Marcellus, hope and heir of the Augustan empire; in the like manner the writer of this View, after having shown the greatness of the United States Bank—exemplified in her capacity to have Jackson condemned—the government directors and a secretary of the treasury rejected—a committee of the House of Representatives repulsed—the country convulsed and agonized—and to obtain from the Senate of the United States a committee to proceed to the city of Philadelphia to "wash out its foul linen;"—after seeing all this and beholding the greatness of the moneyed power at the culminating point of its domination, I feel justified in looking ahead a few years to see it in its altered phase—in its ruined and fallen estate. And this shall be done in the simplest form of exhibition; namely: by copying some announcements from the Philadelphia papers of the day. Thus: 1. "Resolved (by the stockholders), that

it is expedient for the Bank of the United States to make a general assignment of the real and personal estate, goods and chattels, rights and credits, whatsoever, and wheresoever, of the said corporation, to five persons, for the payment or securing of the debts of the same—agreeably to the provisions of the acts of Assembly of this commonwealth (Pennsylvania)." 2. "It is known that measures have been taken to rescue the property of this shattered institution from impending peril, and to recover as much as possible of those enormous bounties which it was conceded had been paid by its late managers to trading politicians and mercenary publishers for corrupt services, rendered to it during its charter-seeking and electioneering campaigns." 3. "The amount of the suit instituted by the Bank of the United States against Mr. N. Biddle is $1,018,000, paid out during his administration, for which no vouchers can be found." 4. "The United States Bank is a perfect wreck, and is seemingly the prey of the officers and their friends, which are making away with its choicest assets by selling them to each other, and taking pay in the depreciated paper of the South." 5. "Besides its own stock of 35,000,000, which is sunk, the bank carries down with it a great many other institutions and companies, involving a loss of about 21,000,000 more—making a loss of 56,000,000—besides injuries to individuals." 6. "There is no price for the United States Bank stock. Some shares are sold, but as lottery tickets would be. The mass of the stockholders stand, and look on, as passengers on a ship that is going down, and from which there is no escape." 7. "By virtue of a writ of *venditioni exponas*, directed to the sheriff of the city and county of Philadelphia, will be exposed to public sale to the highest bidder, on Friday, the 4th day of November next, the marble house and the grounds known as the Bank of the United States, &c." 8. "By virtue of a writ of *levari facias*, to me directed, will be exposed to public sale the estate known as 'Andalusia,' ninety-nine and a half acres, one of the most highly improved places in Philadelphia; the mansion-house, and out-houses and offices, all on the most splendid scale; the green-houses, hot-houses, and conservatories, extensive and useful; taken as the property of Nicholas Biddle." 9. To the honorable Court of General Sessions. The grand jury for the county of Philadelphia. respectfully submit to the court, on their oaths and affirmations, that certain officers connected with the United States Bank, have been guilty of a gross violation of the law—colluding together to defraud those stockholders who had trusted their property to be preserved by them. And that there is good ground to warrant a prosecution of such persons for criminal offences, which the grand jury do now present to the court, and ask that the attorney-general be directed to send up for the action of the grand jury, bills of indictment against Nicholas Biddle, Samuel Jaudon, John Andrews, and others, to the grand jury unknown, for a conspiracy to defraud the stockholders in the Bank of the United States of the sums of, &c." 10. Bills of indictment have been found against Nicholas Biddle, Samuel Jaudon and John Andrews, according to the presentment of the grand jury; and bench warrants issued, which have been executed upon them." 11. "Examination of Nicholas Biddle, and others, before Recorder Vaux. Yesterday afternoon the crowd and excitement in and about the court-room where the examination was to take place was even greater than the day before. The court-room doors were kept closed up to within a few minutes of four o'clock, the crowd outside blocking up every avenue leading to the room. When the doors were thrown open it was immediately filled to overflowing. At four the Recorder took his seat, and announcing that he was ready to proceed, the defendants were called, and severally answered to their names, &c." 12. "On Tuesday, the 18th, the examination of Nicholas Biddle and others, was continued, and concluded; and the Recorder ordered, that Nicholas Biddle, Thomas Dunlap, John Andrews, Samuel Jaudon, and Joseph Cowperthwaite, each enter into a separate recognizance, with two or more sufficient sureties, in the sum of $10,000, for their appearance at the present session of the court of general sessions for the city and county of Philadelphia, to answer the crime of which they thus stand charged." 13. "Nicholas Biddle and those indicted with him have been carried upon writs of *habeas corpus* before the Judges Barton, Conrad, and Doran, and discharged from the custody of the sheriff." 14. "The criminal proceedings against these former officers of the Bank of the United States have been brought to a close. To get rid of the charges against them

without trial of the facts against them, before a jury, they had themselves surrendered by their bail, and sued out writs of *habeas corpus* for the release of their persons. The opinions of the judges, the proceedings having been concluded, were delivered yesterday. The opinions of Judges Barton and Conrad was for their discharge; that of Judge Doran was unfavorable. They were accordingly discharged. The indignation of the community is intense against this escape from the indictments without jury trials."

CHAPTER CXII.

DEATH OF JOHN RANDOLPH, OF ROANOAKE.

He died at Philadelphia in the summer of 1833—the scene of his early and brilliant apparition on the stage of public life, having commenced his parliamentary career in that city, under the first Mr. Adams, when Congress sat there, and when he was barely of an age to be admitted into the body. For more than thirty years he was the political meteor of Congress, blazing with undiminished splendor during the whole time, and often appearing as the "planetary plague" which shed, not war and pestilence on nations, but agony and fear on members. His sarcasm was keen, refined, withering—with a great tendency to indulge in it; but, as he believed, as a lawful parliamentary weapon to effect some desirable purpose. Pretension, meanness, vice, demagogism, were the frequent subjects of the exercise of his talent; and, when confined to them, he was the benefactor of the House. Wit and genius all allowed him; sagacity was a quality of his mind visible to all observers—and which gave him an intuitive insight into the effect of measures. During the first six years of Mr. Jefferson's administration, he was the "Murat" of his party, brilliant in the charge, and always ready for it; and valued in the council, as well as in the field. He was long the chairman of the Committee of Ways and Means—a place always of labor and responsibility, and of more then than now, when the elements of revenue were less abundant; and no man could have been placed in that situation during Mr. Jefferson's time whose known sagacity was not a pledge for the safety of his lead in the most sudden and critical circumstances. He was one of those whom that eminent statesman habitually consulted during the period of their friendship, and to whom he carefully communicated his plans before they were given to the public. On his arrival at Washington at the opening of each session of Congress during this period, he regularly found waiting for him at his established lodgings—then Crawford's, Georgetown—the card of Mr. Jefferson, with an invitation for dinner the next day; a dinner at which the leading measures of the ensuing session were the principal topic. Mr. Jefferson did not treat in that way a member in whose sagacity he had not confidence.

It is not just to judge such a man by ordinary rules, nor by detached and separate incidents in his life. To comprehend him, he must be judged as a whole—physically and mentally—and under many aspects, and for his entire life. He was never well—a chronic victim of ill health from the cradle to the grave. A letter from his most intimate and valued friend, Mr. Macon, written to me after his death, expressed the belief that he had never enjoyed during his life one day of perfect health—such as well people enjoy. Such life-long suffering must have its effect on the temper and on the mind; and it had on his—bringing the temper often to the querulous mood, and the state of his mind sometimes to the question of insanity; a question which became judicial after his death, when the validity of his will came to be contested. I had my opinion on the point, and gave it responsibly, in a deposition duly taken, to be read on the trial of the will; and in which a belief in his insanity, at several specified periods, was fully expressed—with the reasons for the opinion. I had good opportunities of forming an opinion, living in the same house with him several years, having his confidence, and seeing him at all hours of the day and night. It also on several occasions became my duty to study the question, with a view to govern my own conduct under critical circumstances. Twice he applied to me to carry challenges for him. It would have been inhuman to have gone out with a man not in his right mind, and critical to one's self, as any accident on the ground might seriously compromise the second. My opinion was fixed, of occasional temporary aberrations of mind; and

during such periods he would do and say strange things—but always in his own way—not only method, but genius in his fantasies: nothing to bespeak a bad heart, but only exaltation and excitement. The most brilliant talk that I ever heard from him came forth on such occasions—a flow for hours (at one time seven hours), of copious wit and classic allusion—a perfect scattering of the diamonds of the mind. I heard a friend remark on one of these occasions, "he has wasted intellectual jewelry enough here this evening to equip many speakers for great orations." I once sounded him on the delicate point of his own opinion of himself:—of course when he was in a perfectly natural state, and when he had said something to permit an approach to such a subject. It was during his last visit to Washington, two winters before he died. It was in my room, in the gloom of the evening light, as the day was going out and the lamps not lit—no one present but ourselves—he reclining on a sofa, silent and thoughtful, speaking but seldom, and I only in reply, I heard him repeat, as if to himself, those lines from Johnson, (which in fact I had often heard from him before), on "Senility and Imbecility," which show us life under its most melancholy form.

> "In life's last scenes what prodigies surprise,
> Fears of the brave, and follies of the wise!
> From Marlborough's eyes the streams of dotage flow,
> And Swift expires, a driveller and a show."

When he had thus repeated these lines, which he did with deep feeling, and in slow and measured cadence, I deemed it excusable to make a remark of a kind which I had never ventured on before; and said: Mr. Randolph I have several times heard you repeat these lines, as if they could have an application to yourself, while no person can have less reason to fear the fate of Swift. I said this to sound him, and to see what he thought of himself. His answer was: "I have lived in dread of insanity." That answer was the opening of a sealed book—revealed to me the source of much mental agony that I had seen him undergo. I did deem him in danger of the fate of Swift, and from the same cause as judged by his latest and greatest biographer, Sir Walter Scott.

His parliamentary life was resplendent in talent—elevated in moral tone—always moving on the lofty line of honor and patriotism, and scorning every thing mean and selfish. He was the indignant enemy of personal and plunder legislation, and the very scourge of intrigue and corruption. He reverenced an honest man in the humblest garb, and scorned the dishonest, though plated with gold. An opinion was propagated that he was fickle in his friendships. Certainly there were some capricious changes; but far more instances of steadfast adherence. His friendship with Mr. Macon was historic. Their names went together in life—live together in death—and are honored together, most by those who knew them best. With Mr. Tazewell, his friendship was still longer than that with Mr. Macon, commencing in boyhood, and only ending with life. So of many others; and pre-eminently so of his neighbors and constituents—the people of his congressional district—affectionate as well as faithful to him; electing him as they did, from boyhood to the grave. No one felt more for friends, or was more solicitous and anxious at the side of the sick and dying bed. Love of wine was attributed to him; and what was mental excitement, was referred to deep potations. It was a great error. I never saw him affected by wine—not even to the slightest departure from the habitual and scrupulous decorum of his manners. His temper was naturally gay and social, and so indulged when suffering of mind and body permitted. He was the charm of the dinner-table, where his cheerful and sparkling wit delighted every ear, lit up every countenance, and detained every guest. He was charitable; but chose to conceal the hand that ministered relief. I have often seen him send little children out to give to the poor.

He was one of the large slaveholders of Virginia, but disliked the institution, and, when let alone, opposed its extension. Thus, in 1803, when as chairman of the committee which reported upon the Indiana memorial for a temporary dispensation from the anti-slavery part of the ordinance of 1787, he puts the question upon a statesman's ground; and reports against it, in a brief and comprehensive argument:

"That the rapid population of the State of Ohio sufficiently evinces, in the opinion of your committee, that the labor of the slave is not necessary to promote the growth and settlement of colonies in that region. That this labor, demonstrably the dearest of any, can only be employed to advantage in the cultivation of

products more valuable than any known to that quarter of the United States: and the committee deem it highly dangerous and inexpedient to impair a provision wisely calculated to promote the happiness and prosperity of the northwestern country, and to give strength and security to that extensive frontier. In the salutary operation of this sagacious and benevolent restraint, it is believed that the inhabitants of Indiana will, at no very distant day, find ample remuneration for a temporary privation of labor and emigration."

He was against slavery; and by his will, both manumitted and provided for the hundreds which he held. But he was against foreign interference with his rights, his feelings, or his duties; and never failed to resent and rebuke such interference. Thus, he was one of the most zealous of the opposers of the proposed Missouri restriction; and even voted against the divisional line of "thirty-six thirty." In the House, when the term "slaveholder" would be reproachfully used, he would assume it, and refer to a member, not in the parliamentary phrase of colleague, but in the complimentary title of "my fellow-slaveholder." And, in London, when the consignees of his tobacco, and the slave factors of his father, urged him to liberate his slaves, he quieted their intrusive philanthropy, on the spot, by saying, "Yes: you buy and set free to the amount of the money you have received from my father and his estate for these slaves, and I will set free an equal number."

In his youth and later age, he fought duels: in his middle life, he was against them; and, for a while, would neither give nor receive a challenge. He was under religious convictions to the contrary, but finally yielded (as he believed) to an argument of his own, that a duel was private war, and rested upon the same basis as public war; and that both were allowable, when there was no other redress for insults and injuries. That was his argument; but I thought his relapse came more from feeling than reason; and especially from the death of Decatur, to whom he was greatly attached, and whose duel with Barron long and greatly excited him. He had religious impressions, and a vein of piety which showed itself more in private than in external observances. He was habitual in his reverential regard for the divinity of our religion; and one of his beautiful expressions was, that, "If woman had lost us paradise, she had gained us heaven." The Bible and Shakespeare were, in his latter years, his constant companions—travelling with him on the road—remaining with him in the chamber The last time I saw him (in that last visit to Washington, after his return from the Russian mission, and when he was in full view of death) I heard him read the chapter in the Revelations (of the opening of the seals), with such power and beauty of voice and delivery, and such depth of pathos, that I felt as if I had never heard the chapter read before. When he had got to the end of the opening of the sixth seal, he stopped the reading, laid the book (open at the place) on his breast, as he lay on his bed, and began a discourse upon the beauty and sublimity of the Scriptural writings, compared to which he considered all human compositions vain and empty. Going over the images presented by the opening of the seals, he averred that their divinity was in their sublimity—that no human power could take the same images, and inspire the same awe and terror, and sink ourselves into such nothingness in the presence of the "wrath of the Lamb"—that he wanted no proof of their divine origin but the sublime feelings which they inspired.

CHAPTER CXIII.

DEATH OF MR. WIRT.

He died at the age of sixty-two, after having reached a place in the first line at the Virginia bar, where there were such lawyers as Wickham, Tazewell, Watkins Leigh; and a place in the front rank of the bar of the Supreme Court, where there were such jurists as Webster and Pinkney; and after having attained the high honor of professional preferment in the appointment of Attorney General of the United States under the administration of Mr. Monroe. His life contains instructive lessons. Born to no advantages of wealth or position, he raised himself to what he became by his own exertions. In danger of falling into a fatal habit in early life, he retrieved himself (touched by the noble generosity of her who afterwards became his admired and beloved wife), from the brink of the abyss, and became the model of every domestic virtue; with genius to shine without

labor, he yet considered genius nothing without labor, and gave through life a laborious application to the study of the law as a science, and to each particular case in which he was ever employed. The elegant pursuits of literature occupied the moments taken from professional studies and labors, and gave to the reading public several admired productions, of which the long-desired and beautiful "Life of Patrick Henry," was the most considerable: a grateful commemoration of Virginia's greatest orator, which has been justly repaid to one of her first class orators, by Mr. Kennedy of Maryland, in his classic "Life of William Wirt." How grateful to see citizens, thus engaged in laborious professions, snatching moments from their daily labors to do justice to the illustrious dead—to enlighten posterity by their history, and encourage it by their example. Worthy of his political and literary eminence, and its most shining and crowning ornament, was the state of his domestic relations—exemplary in every thing that gives joy and decorum to the private family, and rewarded with every blessing which could result from such relations. But, why use this feeble pen, when the voice of Webster is at hand? Mr. Wirt died during the term of the Supreme Court, his revered friend, the Chief Justice Marshall, still living to preside, and to give, in touching language, the order to spread the proceedings of the bar (in relation to his death) upon the records of the court. At the bar meeting, which adopted these proceedings, Mr. Webster thus paid the tribute of justice and affection to one with whom professional rivalry had been the source and cement of personal friendship:

"It is announced to us that one of the oldest, one of the ablest, one of the most distinguished members of this bar, has departed this mortal life. William Wirt is no more! He has this day closed a professional career, among the longest and the most brilliant, which the distinguished members of the profession in the United States have at any time accomplished. Unsullied in every thing which regards professional honor and integrity, patient of labor, and rich in those stores of learning, which are the reward of patient labor and patient labor only; and if equalled, yet certainly allowed not to be excelled, in fervent, animated and persuasive eloquence, he has left an example which those who seek to raise themselves to great heights of professional eminence, will, hereafter emulously study. Fortunate, indeed, will be the few, who shall imitate it successfully!

"As a public man, it is not our peculiar duty to speak of Mr. Wirt here. His character in that respect belongs to his country, and to the history of his country. And, sir, if we were to speak of him in his private life, and in his social relations, all we could possibly say of his urbanity, his kindness, the faithfulness of his friendships, and the warmth of his affections, would hardly seem sufficiently strong and glowing to do him justice, in the feeling and judgment of those who, separated, now forever from his embraces can only enshrine his memory in their bleeding hearts. Nor may we, sir, more than allude to that other relation, which belonged to him, and belongs to us all; that high and paramount relation, which connects man with his Maker! It may be permitted us, however, to have the pleasure of recording his name, as one who felt a deep sense of religious duty, and who placed all his hopes of the future, in the truth and in the doctrines of Christianity.

"But our particular ties to him were the ties of our profession. He was our brother, and he was our friend. With talents powerful enough to excite the strength of the strongest, with a kindness both of heart and of manner capable of warming and winning the coldest of his brethren, he has now completed the term of his professional life, and of his earthly existence, in the enjoyment of the high respect and cordial affections of us all. Let us, then, sir, hasten to pay to his memory the well-deserved tribute of our regard. Let us lose no time in testifying our sense of our loss, and in expressing our grief, that one great light of our profession is extinguished forever."

CHAPTER CXIV.

DEATH OF THE LAST OF THE SIGNERS OF THE DECLARATION OF INDEPENDENCE.

On the morning of July 4th, 1826—just fifty years after the event—but three of the fifty-six members of the continental Congress of 1776 who had signed the Declaration of Independence, remained alive; on the evening of that day there remained but one—Charles Carroll, of Carrollton, Maryland; then a full score beyond the Psalmist's limit of manly life, and destined to a further lease of six good years. It has been remarked of the "signers of the Declaration" that a felicitous existence seems to have been reserved for them; blessed with long life and good health, honored with the public esteem,

raised to the highest dignities of the States and of the federal government, happy in their posterity, and happy in the view of the great and prosperous country which their labors had brought into existence. Among these, so felicitous and so illustrious, he was one of the most happy, and among the most distinguished. He enjoyed the honors of his pure and patriot life in all their forms; age, and health, and mind, for sixteen years beyond that fourscore which brings labor and sorrow and weakness to man; ample fortune; public honors in filling the highest offices of his State, and a seat in the Senate of the United States; private enjoyment in an honorable and brilliant posterity. Born to fortune, and to the care of wise and good parents, he had all the advantages of education which the colleges of France and the "Inns of Court" of London could give. With every thing to lose in unsuccessful rebellion, he risked all from the first opening of the contest with the mother country: and when he walked up to the secretary's table to sign the paper, which might become a death-warrant to its authors, the remark was made, "there go some millions." And his signing was a privilege, claimed and granted. He was not present at the declaration. He was not even a member of Congress on the memorable Fourth of July. He was in Annapolis on that day, a member of the Maryland Assembly, and zealously engaged in urging a revocation of the instructions which limited the Maryland delegates in the continental Congress to obtaining a redress of grievances without breaking the connection with the mother country. He succeeded—was appointed a delegate—flew to his post—and added his name to the patriot list.

All history tells of the throwing overboard of the tea in Boston harbor: it has not been equally attentive to the burning of the tea in Annapolis harbor. It was the summer of 1774 that the brigantine "Peggy Stewart" approached Annapolis with a cargo of the forbidden leaves on board. The people were in commotion at the news. It was an insult, and a defiance. Swift destruction was in preparation for the vessel: instant chastisement was in search of the owners. Terror seized them. They sent to Charles Carroll as the only man that could moderate the fury of the people, and save their persons and property from a sudden destruction. He told them there was but one way to save their persons, and that was to burn their vessel and cargo, instantly and in the sight of the people. It was done: and thus the flames consumed at Annapolis, what the waves had buried at Boston: and in both cases the spirit and the sacrifice was the same—opposition to taxation without representation, and destruction to its symbol.

CHAPTER CXV.

COMMENCEMENT OF THE SESSION 1834—'35: PRESIDENT'S MESSAGE.

Towards the close of the previous session, Mr. Stevenson had resigned the place of speaker of the House of Representatives in consequence of his nomination to be minister plenipotentiary and envoy extraordinary to the court of St. James—a nomination then rejected by the Senate, but subsequently confirmed. Mr. John Bell of Tennessee, was elected speaker in his place, his principal competitor being Mr. James K. Polk of the same State: and, with this difference in its organization, the House met at the usual time—the first Monday of December. The Cabinet then stood: John Forsyth, Secretary of State, in place of Louis McLane, resigned; Levi Woodbury, Secretary of the Treasury; Lewis Cass, Secretary at War; Mahlon Dickerson, Secretary of the Navy; William T. Barry, Post Master General; Benjamin Franklin Butler, Attorney General. The condition of our affairs with France, was the prominent feature of the message, and presented the relations of the United States with that power under a serious aspect. The indemnity stipulated in the treaty of 1831 had not been paid—no one of the instalments;—and the President laid the subject before Congress for its consideration, and action, if deemed necessary.

"I regret to say that the pledges made through the minister of France have not been redeemed. The new Chambers met on the 31st July last, and although the subject of fulfilling treaties was alluded to in the speech from the throne, no attempt was made by the King or his Cabinet to procure an appropriation to carry it into execution. The reasons given for this omission, although they might be considered sufficient in an ordinary case, are not consistent with the expectations founded upon the assurances given here, for there is no constitutional obstacle to

entering into legislative business at the first meeting of the Chambers. This point, however, might have been overlooked, had not the Chambers, instead of being called to meet at so early a day that the result of their deliberations might be communicated to me before the meeting of Congress, been prorogued to the 29th of the present month—a period so late that their decision can scarcely be made known to the present Congress prior to its dissolution. To avoid this delay, our minister in Paris, in virtue of the assurance given by the French minister in the United States, strongly urged the convocation of the Chambers at an earlier day, but without success. It is proper to remark, however, that this refusal has been accompanied with the most positive assurances, on the part of the Executive government of France, of their intention to press the appropriation at the ensuing session of the Chambers.

"If it shall be the pleasure of Congress to await the further action of the French Chambers, no further consideration of the subject will, at this session, probably be required at your hands. But if, from the original delay in asking for an appropriation; from the refusal of the Chambers to grant it when asked; from the omission to bring the subject before the Chambers at their last session; from the fact that, including that session, there have been five different occasions when the appropriation might have been made; and from the delay in convoking the Chambers until some weeks after the meeting of Congress, when it was well known that a communication of the whole subject to Congress at the last session was prevented by assurances that it should be disposed of before its present meeting, you should feel yourselves constrained to doubt whether it be the intention of the French government in all its branches to carry the treaty into effect, and think that such measures as the occasion may be deemed to call for should be now adopted, the important question arises, what those measures shall be."

The question then, of further delay, waiting on the action of France, or of action on our own part, was thus referred to Congress; but under the constitutional injunction, to recommend to that body the measures he should deem necessary, and in compliance with his own sense of duty, and according to the frankness of his temper, he fully and categorically gave his own opinion of what ought to be done; thus:

"It is my conviction that the United States ought to insist on a prompt execution of the treaty; and, in case it be refused, or longer delayed, take redress into their own hands. After the delay, on the part of France, of a quarter of a century, in acknowledging these claims by treaty, it is not to be tolerated that another quarter of a century is to be wasted in negotiating about the payment. The laws of nations provide a remedy for such occasions. It is a well-settled principle of the international code, that where one nation owes another a liquidated debt, which it refuses or neglects to pay, the aggrieved party may seize on the property belonging to the other, its citizens or subjects, sufficient to pay the debt, without giving just cause of war. This remedy has been repeatedly resorted to, and recently by France herself towards Portugal, under circumstances less unquestionable."

"Since France, in violation of the pledges given through her minister here, has delayed her final action so long that her decision will not probably be known in time to be communicated to this Congress, I recommend that a law be passed authorizing reprisals upon French property, in case provision shall not be made for the payment of the debt at the approaching session of the French Chambers. Such a measure ought not to be considered by France as a menace. Her pride and power are too well known to expect any thing from her fears, and preclude the necessity of the declaration that nothing partaking of the character of intimidation is intended by us. She ought to look upon it as the evidence only of an inflexible determination on the part of the United States to insist on their rights. That Government, by doing only what it has itself acknowledged to be just, will be able to spare the United States the necessity of taking redress into their own hands, and save the property of French citizens from that seizure and sequestration which American citizens so long endured without retaliation or redress. If she should continue to refuse that act of acknowledged justice, and, in violation of the law of nations, make reprisals on our part the occasion of hostilities against the United States, she would but add violence to injustice, and could not fail to expose herself to the just censure of civilized nations, and to the retributive judgments of Heaven."

In making this recommendation, and in looking to its possible result as producing war between the two countries, the President showed himself fully sensible to all the considerations which should make such an event deplorable between powers of ancient friendship, and their harmony and friendship desirable for the sake of the progress and maintenance of liberal political systems in Europe. And on this point he said:

"Collision with France is the more to be regretted, on account of the position she occupies in Europe in relation to liberal institutions. But in maintaining our national rights and honor, all governments are alike to us. If, by a collision with France, in a case where she is

clearly in the wrong, the march of liberal principles shall be impeded, the responsibility for that result, as well as every other, will rest on her own head."

This state of our relations with France gave rise to some animated proceedings in our Congress, which will be noticed in their proper place. The condition of the finances was shown to be good—not only adequate for all the purposes of the government and the complete extinguishment of the remainder of the public debt, but still leaving a balance in the treasury equal to one fourth of the annual income at the end of the year. Thus:

"According to the estimate of the Treasury Department, the revenue accruing from all sources, during the present year, will amount to twenty millions six hundred and twenty-four thousand seven hundred and seventeen dollars, which, with the balance remaining in the Treasury on the first of January last, of eleven millions seven hundred and two thousand nine hundred and five dollars, produces an aggregate of thirty-two millions three hundred and twenty-seven thousand six hundred and twenty-three dollars. The total expenditure during the year for all objects, including the public debt, is estimated at twenty-five millions five hundred and ninety-one thousand three hundred and ninety dollars, which will leave a balance in the Treasury on the first of January, 1835, of six millions seven hundred and thirty-six thousand two hundred and thirty-two dollars. In this balance, however, will be included about one million one hundred and fifty thousand dollars of what was heretofore reported by the department as not effective."

This unavailable item of above a million of dollars consisted of local bank notes, received in payment of public lands during the years of general distress and bank suspensions from 1819 to 1822; and the banks which issued them having failed they became worthless; and were finally dropt from any enumeration of the contents of the treasury. The extinction of the public debt, constituting a marked event in our financial history, and an era in the state of the treasury, was looked to by the President as the epoch most proper for the settlement of our doubtful points of future policy, and the inauguration of a system of rigorous economy: to which effect the message said:

"Free from public debt, at peace with all the world, and with no complicated interests to consult in our intercourse with foreign powers, the present may be hailed as the epoch in our history the most favorable for the settlement of those principles in our domestic policy, which shall be best calculated to give stability to our republic, and secure the blessings of freedom to our citizens. While we are felicitating ourselves, therefore, upon the extinguishment of the national debt, and the prosperous state of our finances, let us not be tempted to depart from those sounds maxims of public policy, which enjoin a just adaptation of the revenue to the expenditures that are consistent with a rigid economy, and an entire abstinence from all topics of legislation that are not clearly within the constitutional powers of the Government, and suggested by the wants of the country. Properly regarded, under such a policy, every diminution of the public burdens arising from taxation, gives to individual enterprise increased power, and furnishes to all the members of our happy confederacy, new motives for patriotic affection and support. But, above all, its most important effect will be found in its influence upon the character of the Government, by confining its action to those objects which will be sure to secure to it the attachment and support of our fellow-citizens."

The President had a new cause of complaint to communicate against the Bank of the United States, which was the seizure of the dividends due the United States on the public stock in the institution. The occasion was, the claim for damages which the bank set up on a protested bill of exchange, sold to it on the faith of the French treaty; and which was protested for non-payment. The case is thus told by the President:

"To the needless distresses brought on the country during the last session of Congress, has since been added the open seizure of the dividends on the public stock, to the amount of $170,041, under pretence of paying damages, cost, and interest, upon the protested French bill. This sum constituted a portion of the estimated revenues for the year 1834, upon which the appropriations made by Congress were based. It would as soon have been expected that our collectors would seize on the customs, or the receivers of our land offices on the moneys arising from the sale of public lands, under pretences of claims against the United States, as that the bank would have retained the dividends. Indeed, if the principle be established that any one who chooses to set up a claim against the United States may, without authority of law, seize on the public property or money wherever he can find it, to pay such claim, there will remain no assurance that our revenue will reach the treasury, or that it will be applied after the appropriation to the purposes designated in the law. The paymasters of our army, and the pursers of our navy, may,

under like pretences, apply to their own use moneys appropriated to set in motion the public force, and in time of war leave the country without defence. This measure, resorted to by the Bank, is disorganizing and revolutionary, and, if generally resorted to by private citizens in like cases, would fill the land with anarchy and violence."

The money thus seized by the bank was retained until recovered from it by due course of law. The corporation was sued, judgment recovered against it, and the money made upon a writ of execution; so that the illegality of its conduct in making this seizure was judicially established. The President also communicated new proofs of the wantonness of the pressure and distress made by the bank during the preceding session—the fact coming to light that it had shipped about three millions and a half of the specie to Europe which it had squeezed out of the hands of the people during the panic;—and also that, immediately after the adjournment of Congress, the action of the bank was reversed—the curtailment changed into extension; and a discount line of seventeen millions rapidly ran out.

"Immediately after the close of the last session, the bank, through its president, announced its ability and readiness to abandon the system of unparalleled curtailment, and the interruption of domestic exchanges, which it had practised upon from the 1st of August, 1833, to the 30th of June, 1834, and to extend its accommodations to the community. The grounds assumed in this annunciation amounted to an acknowledgment that the curtailment, in the extent to which it had been carried, was not necessary to the safety of the bank, and had been persisted in merely to induce Congress to grant the prayer of the bank in its memorial relative to the removal of the deposits, and to give it a new charter. They were substantially a confession that all the real distresses which individuals and the country had endured for the preceding six or eight months, had been needlessly produced by it, with the view of effecting, through the sufferings of the people, the legislative action of Congress. It is a subject of congratulation that Congress and the country had the virtue and firmness to bear the infliction; that the energies of our people soon found relief from this wanton tyranny, in vast importations of the precious metals from almost every part of the world; and that, at the close of this tremendous effort to control our government, the bank found itself powerless, and no longer able to loan out its surplus means. The community had learned to manage its affairs without its assistance, and trade had already found new auxiliaries; so that, on the 1st of October last, the extraordinary spectacle was presented of a national bank, more than one half of whose capital was either lying unproductive in its vaults, or in the hands of foreign bankers."

Certainly this was a confession of the whole criminality of the bank in making the distress; but even this confession did not prevent the Senate's Finance Committee from making an honorable report in its favor. But there is something in the laws of moral right above the powers of man, or the designs and plans of banks and politicians. The greatest calamity of the bank—the loss of thirty-five millions of stock to its subscribers—chiefly dates from this period and this conduct. Up to this time its waste and losses, though great, might still have been remediable; but now the incurable course was taken. Half its capital lying idle! Good borrowers were scarce; good indorsers still more so; and a general acceptance of stocks in lieu of the usual security was the fatal resort. First, its own stock, then a great variety of stocks were taken; and when the bank went into liquidation, its own stock was gone! and the others in every imaginable degree of depreciation, from under par to nothing. The government had directors in the bank at that time, Messrs. Charles McAllister, Edward D. Ingraham, and —— Ellmaker; and the President was under no mistake in any thing he said. The message recurs to the fixed policy of the President in selling the public stock in the bank, and says:

"I feel it my duty to recommend to you that a law be passed authorizing the sale of the public stock; that the provision of the charter requiring the receipt of notes of the bank in payment of public dues, shall, in accordance with the power reserved to Congress in the 14th section of the charter, be suspended until the bank pays to the treasury the dividends withheld; and that all laws connecting the government or its officers with the bank, directly or indirectly, be repealed; and that the institution be left hereafter to its own resources and means."

The wisdom of this persevering recommendation was, fortunately, appreciated in time to save the United States from the fate of other stockholders. The attention of Congress was again called to the regulation of the deposits in State banks. As yet there was no law upon the subject. The bill for that purpose passed in the House of Representatives at the previous

session, had been laid upon the table in the Senate; and thus was kept open a head of complaint against the President for the illegal custody of the public moneys. It was not illegal. It was the custody, more or less resorted to, under every administration of the federal government, and never called illegal except under President Jackson; but it was a trust of a kind to require regulation by law; and he, therefore, earnestly recommended it. The message said:

"The attention of Congress is earnestly invited to the regulation of the deposits in the State banks, by law. Although the power now exercised by the Executive department in this behalf is only such as was uniformly exerted through every administration from the origin of the government up to the establishment of the present bank, yet it is one which is susceptible of regulation by law, and, therefore, ought so to be regulated. The power of Congress to direct in what places the Treasurer shall keep the moneys in the Treasury, and to impose restrictions upon the Executive authority, in relation to their custody and removal, is unlimited, and its exercise will rather be courted than discouraged by those public officers and agents on whom rests the responsibility for their safety. It is desirable that as little power as possible should be left to the President or Secretary of the Treasury over those institutions, which, being thus freed from Executive influence, and without a common head to direct their operations, would have neither the temptation nor the ability to interfere in the political conflicts of the country. Not deriving their charters from the national authorities, they would never have those inducements to meddle in general elections, which have led the Bank of the United States to agitate and convulse the country for upwards of two years."

The increase of the gold currency was a subject of congratulation, and the purification of paper by the suppression of small notes a matter of earnest recommendation with the President—the latter addressed to the people of the States, and every way worthy of their adoption. He said:

"The progress of our gold coinage is creditable to the officers of the mint, and promises in a short period to furnish the country with a sound and portable currency, which will much diminish the inconvenience to travellers of the want of a general paper currency, should the State banks be incapable of furnishing it. Those institutions have already shown themselves competent to purchase and furnish domestic exchange for the convenience of trade, at reasonable rates; and not a doubt is entertained that, in a short period, all the wants of the country, in bank accommodations and exchange, will be supplied as promptly and as cheaply as they have heretofore been by the Bank of the United States. If the several States shall be induced gradually to reform their banking systems, and prohibit the issue of all small notes, we shall, in a few years, have a currency as sound, and as little liable to fluctuations, as any other commercial country."

The message contained the standing recommendation for reform in the presidential election. The direct vote of the people, the President considered the only safeguard for the purity of that election, on which depended so much of the safe working of the government. The message said:

"I trust that I may be also pardoned for renewing the recommendation I have so often submitted to your attention in regard to the mode of electing the President and Vice-President of the United States. All the reflection I have been able to bestow upon the subject, increases my conviction that the best interests of the country will be promoted by the adoption of some plan which will secure, in all contingencies, that important right of sovereignty to the direct control of the people. Could this be attained, and the terms of those officers be limited to a single period of either four or six years, I think our liberties would possess an additional safeguard."

CHAPTER CXVI.

REPORT OF THE BANK COMMITTEE.

EARLY in the session the Finance Committee of the Senate, which had been directed to make an examination into the affairs of the Bank of the United States, made their report—an elaborate paper, the reading of which occupied two hours and a half,—for this report was honored with a reading at the Secretary's table, while but few of the reports made by heads of departments, and relating to the affairs of the whole Union, received that honor. It was not only read through, but by its author—Mr. Tyler, the second named of the committee; the first named, or official chairman, Mr. Webster, not having acted on the committee. The report was a most elaborate vindication of the conduct of the bank at all points; but it did not stop at the defence of the institution, but went forward to the crimination of others. It dragged in the names of General Jackson, Mr. Van Buren, and Mr. Benton, laying hold of the circumstance of their having done ordinary acts of duty to their friends

and constituents in promoting their application for branch banks, to raise false implications against them as having been in favor of the institution. If such had been the fact, it did not come within the scope of the committee's appointment, nor of the resolution under which they acted, to have reported upon such a circumstance: but the implications were untrue; and Mr. Benton being the only one present that had the right of speech, assailed the report the instant it was read—declaring that such things were not to pass uncontradicted for an instant—that the Senate was not to adjourn, or the galleries to disperse without hearing the contradiction. And being thus suddenly called up by a sense of duty to himself and his friends, he would do justice upon the report at once, exposing its numerous fallacies from the moment they appeared in the chamber. He commenced with the imputations upon himself, General Jackson and Mr. Van Buren, and scornfully repulsed the base and gratuitous assumptions which had been made. He said:

"His own name was made to figure in that report—in very good company to be sure, that of President Jackson, Vice-President Van Buren and Mr. senator Grundy. It seems that we have all been detected in something that deserves exposure—in the offence of aiding our respective constituents, or fellow-citizens in obtaining branch banks to be located in our respective States; and upon this detection, the assertion is made that these branches were not extended to these States for political effect, when the charter was nearly run out, but in good faith, and upon our application, to aid the business of the country. Mr. B. said, it was true that he had forwarded a petition from the merchants of St. Louis, about 1826 or '27, soliciting a branch at that place: and he had accompanied it by a letter, as he had been requested to do, sustaining and supporting their request; and bearing the testimony to their characters as men of business and property which the occasion and the truth required. He did this for merchants who were his political enemies, and he did it readily and cordially, as a representative ought to act for his constituents, whether they are for him, or against him, in the elections. So far so good; but the allegation of the report is, that the branch at St. Louis was established upon this petition and this letter, and therefore was not established with political views, but purely and simply for business purposes. Now, said Mr. B., I have a question to put to the senator from Virginia (Mr. Tyler), who has made the report for the committee: It is this: whether the president or directors of the bank had informed him that General Cadwallader had been sent as an agent to St. Louis, to examine the place, and to report upon its ability to sustain a branch?

"Mr. Tyler rose, and said, that he had heard nothing at the bank upon the subject of Gen. Cadwallader having been sent to St. Louis, or any report upon the place being made."

"Then, said Mr. Benton, resuming his speech, the committee has been treated unworthily,—scurvily,—basely,—by the bank! It has been made the instrument to report an untruth to the Senate, and to the American people; and neither the Senate, nor that part of the American people who chance to be in this chamber, shall be permitted to leave their places until that falsehood is exposed.

"Sir, said Mr B., addressing the Vice-President, the president, and directors of the Bank of the United States, upon receiving the merchants' petition, and my letter, *did not send a branch to St. Louis!* They sent an agent there, in the person of General Cadwallader, to examine the place, and to report upon its mercantile capabilities and wants; and upon that report, the decision was made, and made against the request of the merchants, and that upon the ground that the business of the place would not justify the establishment of a branch. The petition from the merchants came to Mr. B. while he was here, in his seat; it was forwarded from this place to Philadelphia; the agent made his visit to St. Louis before he (Mr. B.) returned; and when he got home, in the spring, or summer, the merchants informed him of what had occurred; and that they had received a letter from the directory of the bank, informing them that a branch could not be granted; and there the whole affair, so far as the petition and the letter were concerned, died away. But, said Mr. B., it happened just in that time, that I made my first demonstration—struck my first blow—against the bank; and the next news that I had from the merchants was, that another letter had been received from the bank, without any new petition having been sent, and without any new report upon the business of the place, informing them that the branch was to come! And come it did, and immediately went to work to gain men and presses, to govern the politics of the State, to exclude him (Mr. B.) from re-election to the Senate; and to oppose every candidate, from governor to constable, who was not for the bank. The branch had even furnished a list to the mother bank, through some of its officers, of the names and residences of the active citizens in every part of the State; and to these, and to their great astonishment at the familiarity and condescension of the high directory in Philadelphia, myriads of bank documents were sent, with a minute description of name and place, postage free. At the presidential election of 1832, the State was deluged with these favors. At his own re-elections to the Senate, the two last, the branch bank was in the field against him every where, and in every form; its directors traversing the State,

going to the houses of the members of the General Assembly after they were elected, in almost every county, over a State of sixty thousand square miles; and then attending the .egislature as lobby members, to oppose him. Of these things Mr. B. had never spoken in public before, nor should he have done it now, had it not been for the falsehood attempted to be palmed upon the Senate through the instrumentality of its committee. But having been driven into it, he would mention another circumstance, which also, he had never named in public before, but which would throw light upon the establishment of the branch in St. Louis, and the kind of business which it had to perform. An immense edition of a review of his speech on the veto message, was circulated through his State on the eve of his last election. It bore the impress of the bank foundry in Philadelphia, and was intended to let the people of Missouri see that he (Mr. B.) was a very unfit person to represent them: and afterwards it was seen from the report of the government directors to the President of the United States, that seventy-five thousand copies of that review were paid for by the Bank of the United States!"

The committee had gone out of their way—departed from the business with which they were charged by the Senate's resolution—to bring up a stale imputation upon Gen. Jackson, for becoming inimical to Mr. Biddle, because he could not make him subservient to his purposes. The imputation was unfounded and gratuitous, and disproved by the journals of the Senate, which bore Gen. Jackson's nomination of Mr. Biddle for government director—and at the head of those directors, thereby indicating him for president of the bank—three several times, in as many successive years, after the time alleged for this hostility and vindictiveness. This unjustifiable imputation became the immediate, the next point of Mr. Benton's animadversion; and was thus disposed of:

"Mr. B. said there was another thing which must be noticed now, because the proof to confound it was written in our own journals. He alluded to the 'hostility' of the President of the United States to the bank, which made so large a figure in that report. The 'vindictiveness' of the President,—the 'hostility' of the President, was often pressed into the service of that report—which he must be permitted to qualify as an elaborate defence of the bank. Whether used originally, or by quotation, it was the same thing. The quotation from Mr. Duane was made to help out the argument of the committee—to sustain their position—and thereby became their own. The 'vindictiveness' of the President towards the bank, is brought forward with imposing gravity by the committee; and no one is at a loss to understand what is meant! The charge has been made too often not to suggest the whole story as often as it is hinted. The President became hostile to Mr. Biddle, according to this fine story, because he could not manage him! because he could not make him use the institution for political purposes! and hence his revenge, his vindictiveness, his hatred of Mr. Biddle, and his change of sentiment towards the institution. This is the charge which has run through the bank presses for three years, and is alleged to take date from 1829, when an application was made to change the president of the Portsmouth branch. But how stands the truth, recorded upon our own journals? It stands thus: that for three consecutive years after the harboring of this deadly malice against Mr. Biddle, for not managing the institution to suit the President's political wishes—for three years, one after another, with this 'vindictive' hate in his bosom, and this diabolical determination to ruin the institution, he nominates this same Mr. Biddle to the Senate, as one of the government directors, and at the head of those directors! Mr. Biddle and some of his friends with him came in, upon every nomination for three successive years, after vengeance had been sworn against him! For three years afterwards he is not only named a director, but indicated for the presidency of the bank, by being put at the head of those who came recommended by the nomination of the President, and the sanction of the Senate! Thus was he nominated for the years 1830, 1831, and 1832; and it was only after the report of Mr. Clayton's committee of 1832 that the President ceased to nominate Mr. Biddle for government director! Such was the frank, confiding and friendly conduct of the President; while Mr. Biddle, conscious that he did not deserve a nomination at his hands, had himself also elected during each of these years, at the head of the stockholders' ticket. He knew what he was meditating and hatching against the President, though the President did not! What then becomes of the charge faintly shadowed forth by the committee, and publicly and directly made by the bank and its friends? False! False as hell! and no senator can say it without finding the proof of the falsehood recorded in our own journal!"

Mr. Benton next defended Mr. Taney from an unjustifiable and gratuitous assault made upon him by the committee—the more unwarrantable because that gentleman was in retirement—no more in public life—having resigned his place of Secretary of the Treasury the day he was rejected by the Senate. Mr. Taney, in his report upon the removal of the deposits, had repeated, what the government directors and a committee of the House of Representatives had

first reported, of the illegal conduct of the bank committee of exchange, in making loans. The fact was true, and as since shown, to a far higher degree than then detected; and the Senate's committee were unjustifiable in defending it. But not satisfied with this defence of a criminal institution against a just accusation, they took the opportunity of casting censure upon Mr. Taney, and gaining a victory over him by making a false issue. Mr. Benton immediately corrected this injustice. He said:

"That he was not now going into a general answer to the report, but he must do justice to an absent gentleman—one of the purest men upon earth, both in public and private life, and who, after the manner he had been treated in this chamber, ought to be secure, in his retirement, from senatorial attack and injustice. The committee have joined a conspicuous issue with Mr. Taney; and they have carried a glorious bank victory over him, by turning off the trial upon a false point. Mr. Taney arraigned the legality of the conduct of the exchange committee, which, overleaping the business of such a committee, which is to buy and sell *real bills of exchange*, had become invested with the power of the whole board; transacting that business which, by the charter, could only be done by the board of directors, and by a board of not less than seven, and which they could not delegate. Yet this committee, of three, selected by the President himself, was shown by the report of the government directors to transact the most important business; such as making immense loans, upon long credits, and upon questionable security; sometimes covering its operations under the simulated garb, and falsified pretext, *of buying a bill of exchange;* sometimes using no disguise at all. It was shown, by the same report, to have the exclusive charge of conducting the curtailment last winter; a business of the most important character to the country, having no manner of affinity to the proper functions of an exchange committee; and which they conducted in the most partial and iniquitous manner; and without even reporting to the board. All this the government directors communicated. All this was commented upon on this floor; yet Mr. Taney is selected! He is the one pitched upon; as if nobody but him had arraigned the illegal acts of this committee; and then he is made to arraign the existence of the committee, and not its misconduct! Is this right? Is it fair? Is it just thus to pursue that gentleman, and to pursue him unjustly? Can the vengeance of the bank never be appeased while he lives and moves on earth?"

After having vindicated the President, the Vice-President, Mr. Grundy, Mr. Taney, and himself, from the unfounded imputations of the committee, so gratuitously presented, so unwarranted in fact, and so foreign to the purpose for which they were appointed, Mr. Benton laid hold of some facts which had come to light for the purpose of showing the misconduct of the bank, and to invalidate the committee's report. The first was the transportation of specie to London while pressing it out of the community here. He said:

"He had performed a duty, which ought not to be delayed an hour, in defending himself, the President, and Mr. Taney, from the sad injustice of that report; the report itself, with all its elaborate pleadings for the bank,—its errors of omission and commission,—would come up for argument after it was printed; and when, with God's blessing, and the help of better hands, he would hope to show that it was the duty of the Senate to recommit it, with instructions to examine witnesses upon oath, and to bring out that secret history of the institution, which seems to have been a sealed book to the committee. For the present, he would bring to light two facts, detected in the intricate mazes of the monthly statements, which would fix at once, both the character of the bank and the character of the report; the bank, for its audacity, wickedness and falsehood; the report, for its blindness, fatuity, and partiality.

"The bank, as all America knows (said Mr. B.), filled the whole country with the endless cry which had been echoed and re-echoed from this chamber, that the removal of the deposits had laid her under the necessity of curtailing her debts; had compelled her to call in her loans, to fill the vacuum in her coffers produced by this removal; and thus to enable herself to stand the pressure which the 'hostility' of the government was bringing upon her. This was the assertion for six long months; and now let facts confront this assertion, and reveal the truth to an outraged and insulted community.

"The first fact (said Mr. B.), is the transfer of the moneys to London, to lie there idle, while squeezed out of the people here during the panic and pressure.

"The cry of distress was raised in December, at the meeting of Congress; and during that month the sum of $129,764 was transferred by the bank to its agents, the Barings. This cry waxed stronger till July, and until that time the monthly transfers were:

December,	$129,764
February,	355,253
March,	261,543
May,	34,749
June,	2,142,054
July,	501,950
	$3,425,313

Making the sum of near three millions and a half transferred to London, to lie idle in the hands of an agent, while that very money was squeezed out of a few cities here; and the whole country, and the halls of Congress, were filled with the deafening din of the cry, that the bank was forced to curtail, to supply the loss in her own coffers from the removal of the deposits! And, worse yet! The bank had, in the hands of the same agents, a large sum when the transfers of these panic collections began; making in the whole, the sum of $4,261,201, on the first day of July last, which was lying idle in her agents' hands in London, drawing little or no interest there, while squeezed out of the hands of those who were paying bank interest here, near seven per cent.; and had afterwards to go into brokers' hands to borrow at one or two per cent. a month. Even now, at the last returns on the first day of this month, about two millions and a half of this money ($2,678,006) was still lying idle in the hands of the Barings! waiting till foreign exchange can be put up again to eight or ten per cent. The enormity of this conduct, Mr. B. said, was aggravated by the notorious fact, that the transfers of this money were made by sinking the price of exchange as low as five per cent. below par, when shippers and planters had bills to sell; and raising it eight per cent. above par when merchants and importers had to buy; thus double taxing the commerce of the country—double taxing the producer and consumer—and making a fluctuation of thirteen per cent. in foreign exchange, in the brief space of six months. And all this to make money scarce at home while charging that scarcity upon the President! Thus combining calumny and stock-jobbing with the diabolical attempt to ruin the country, or to rule it."

The next glaring fact which showed the enormous culpability of the bank in making the pressure and distress, was the abduction of about a million and a quarter of hard dollars from New Orleans, while distressing the business community there by refusal of discounts and the curtailment of loans, under pretence of making up what she lost there by the removal of the deposits. The fact of the abduction was detected in the monthly reports still made to the Secretary of the Treasury, and was full proof of the wantonness and wickedness of the pressure, as the amount thus squeezed out of the community was immediately transferred to Phi-.adelphia or New-York; to be thence shipped to London. Mr. Benton thus exposed this iniquity:

"The next fact, Mr. B. said, was the abduction of an immense amount of specie from New Orleans, at the moment the Western produce was arriving there; and thus disabling the merchants from buying that produce, and thereby sinking its price nearly one half; and all under the false pretext of supplying the loss in its coffers, occasioned by the removal of the deposits.

"The falsehood and wickedness of this conduct will appear from the fact, that, at the time of the removal of the deposits, in October, the public deposits, in the New Orleans branch, were far less than the amount afterwards curtailed, and sent off; and that these deposits were not entirely drawn out, for many months after the curtailment and abduction of the money. Thus, the public deposits, in October, were:

"In the name of the Treasurer of the United States,	$294,228 62
"In the name of public officers,	173,764 64
	$467,993 26

"In all, less than half a million of dollars.

"In March, there was still on hand:

"In the name of the Treasurer,	$40,266 28
"In the name of public officers,	63,671 80
	$103,938 08

"In all, upwards of one hundred thousand dollars; and making the actual withdrawal of deposits, at that branch, but $360,000, and that paid out gradually, in the discharge of government demands.

"Now, what was the actual curtailment, during the same period? It is shown from the monthly statements, that these curtailments, on local loans, were $788,904; being upwards of double the amount of deposits, miscalled *removed;* for they were not removed; but only paid out in the regular progress of government disbursement, and actually remaining in the mass of circulation, and much of it in the bank itself. But the specie removed during the same time! that was the fact, the damning fact, upon which he relied. This abduction was:

"In the month of November,	$334,647	*at the least.*
"In the month of March,	808,084	
	$1,142,731	

"Making near a million and a quarter of dollars, at the least. Mr. B. repeated, at the least; for a monthly statement does not show the accumulation of the month which might also be sent off; and the statement could only be relied on for so much as appeared a month before the abduction was made. Probably the sum was upwards of a million and a quarter of hard dollars, thus taken away from New Orleans last winter, by stopping accommodations, calling in loans, breaking up domestic exchange, creating panic and pressure, and sinking the price of all produce; that the mother bank might transfer funds to London, gamble in foreign exchange,

spread desolation and terror through the land; and then charge the whole upon the President of the United States; and end with the grand consummation of bringing a new political party into power, and perpetuating its own charter."

Mr. Benton commented on the barefacedness of running out an immense line of discounts, so soon done after the rise of the last session of Congress, and so suddenly, that the friends of the bank, in remote places, not having had time to be informed of the "reversal of the bank screws," were still in full chorus, justifying the curtailment; and concluded with denouncing the report as *ex parte*, and remarking upon the success of the committee in finding what they were not sent to look for, and not finding what they ought to have found. He said:

"These are some of the astounding iniquities which have escaped the eyes of the committee, while they have been so successful in their antiquarian researches into Andrew Jackson's and Felix Grundy's letters, ten or twenty years ago, and into Martin Van Buren's and Thomas H. Benton's, six or eight years ago; letters which every public man is called upon to give to his neighbors, or constituents; which no public man ought to refuse, or, in all probability ever did refuse; and which are so ostentatiously paraded in the report, and so emphatically read in this chamber, with pause and gesture; and with such a sympathetic look for the expected smile from the friends of the bank; letters which, so far as he was concerned, had been used to make the committee the organ of a falsehood. And now, Mr. B. would be glad to know, who put the committee on the scent of those old musty letters; for there was nothing in the resolution, under which they acted, to conduct their footsteps to the silent covert of that small game."

Mr. Tyler made a brief reply, in defence of the report of the committee, in which he said:

"The senator from Missouri had denominated the report 'an elaborate defence of the bank.' He had said that it justified the bank in its course of curtailment, during the last winter and the early part of the summer. Sir, if the honorable senator had paid more attention to the reading, or had waited to have it in print, he would not have hazarded such a declaration. He would have perceived that that whole question was submitted to the decision of the Senate. The committee had presented both sides of the question—the view most favorable, and that most unfavorable, to the institution. It exhibited the measures of the Executive and those of the bank consequent upon them, on the one side, and the available resources of the bank on the other. The fact that its circulation of $19,000,000 was protected by specie to the amount of $10,000,000, and claims on the State banks exceeding $2,000,000, which were equal to specie—that its purchase of domestic exchange had so declined, from May to October, as to place at its disposal more than $5,000,000; something more than a doubt is expressed whether, under ordinary circumstances, the bank would have been justified in curtailing its discounts. So, too, in regard to a perseverance in its measures of precaution as long as it did, a summary of facts is given to enable the Senate to decide upon the propriety of the course pursued by the bank. The effort of the committee has been to present these subjects fairly to the Senate and the country. They have sought 'nothing to extenuate,' nor have they 'set down ought in malice.' The statements are presented to the senator, for his calm and deliberate consideration—to each senator, to be weighed as becomes his high station. And what is the course of the honorable senator? The moment he (Mr. T.) could return to his seat from the Clerk's table, the gentleman pounces upon the report, and makes assertions which a careful perusal of it would cause him to know it does not contain. On one subject, the controversy relative to the bill of exchange, and the damages consequent on its protest, the committee had expressed the opinion, that the government was in error, and he, as a member of that committee, would declare his own conviction that that opinion was sound and maintainable before any fair and impartial tribunal in the world. Certain persons started back with alarm, at the mere mention of a court of justice. The trial by jury had become hateful in their eyes. The great principles of *magna charta* are to be overlooked, and the declarations contained in the bill of rights are become too old-fashioned to be valuable. Popular prejudices are to be addressed, and instead of an appeal to the calm judgment of mankind, every lurking prejudice is to be awakened, because a corporation, or a set of individuals, have believed themselves wronged by the accounting officers of the treasury, and have had the temerity and impudence to take a course calculated to bring their rights before the forum of the courts. Let those who see cause to pursue this course rejoice as they may please, and exult in the success which attends it. For one, I renounce it as unworthy American statesmen. The committee had addressed a sober and temperate but firm argument, upon this subject, to the Senate; and, standing in the presence of that august body, and before the whole American people, he rested upon that argument for the truth of the opinion advanced. An opinion, for the honesty of which, on his own part, he would avouch, after the most solemn manner, under the unutterable obligations he was under to his Creator.

"The senator had also spoken in strong language as to that part of the report which related to the committee of exchange. He had said that a false issue had been presented—that the

late Secretary of the Treasury (Mr. Taney) had never contended that the bank had no right to appoint a committee of exchange—that such a committee was appointed by all banks. In this last declaration the gentleman is correct. All banks have a committee to purchase exchange. But Mr. T. would admonish the gentleman to beware. He would find himself condemning him whom he wished to defend. Mr. Taney's very language is quoted in the report. He places the violation of the charter distinctly on the ground that the business of the bank is intrusted to three members on the exchange committee, when the charter requires that not less than seven shall constitute a board to do business. His very words are given in the report, so that he cannot be misunderstood; and the commentary of the committee consists in a mere narrative of facts. Little more is done than to give facts, and the honorable senator takes the alarm; and, in his effort to rescue the late Secretary from their influence, plunges him still deeper into difficulty.

"The senator had loudly talked of the committee having been made an instrument of, by the bank. For himself, he renounced the ascription. He would tell the honorable senator that he could not be made an instrument of by the bank, or by a still greater and more formidable power, the administration. He stood upon that floor to accomplish the purposes for which he was sent there. In the consciousness of his own honesty, he stood firm and erect. He would worship alone at the shrine of truth and of honor. It was a precious thing, in the eyes of some men, to bask in the sunshine of power. He rested only upon the support, which had never failed him, of the high and lofty feelings of his constituents. He would not be an instrument even in their hands, if it were possible for them to require it of him, to gratify an unrighteous motive."

CHAPTER CXVII.

FRENCH SPOLIATIONS BEFORE 1800.

These claims had acquired an imposing aspect by this time. They were called "prior" to the year 1800; but how much prior was not shown, and they might reach back to the establishment of our independence. Their payment by the United States rested upon assumptions which constituted the basis of the demand, and on which the bill was framed. It assumed, *first*—That illegal seizures, detentions, captures, condemnations, and confiscations were made of the vessels and property of citizens of the United States before the period mentioned. *Secondly*—That these acts were committed by such orders and under such circumstances, as gave the sufferers a right to indemnity from the French government. *Thirdly*—That these claims had been annulled by the United States for public considerations. *Fourthly*—That this annulment gave these sufferers a just claim upon the United States for the amount of their losses. Upon these four assumptions the bill rested—some of them disputable in point of fact, and others in point of law. Of these latter was the assumption of the liability of the United States to become paymasters themselves in cases where failing, by war or negotiation, to obtain redress they make a treaty settlement, surrendering or abandoning claims. This is an assumption contrary to reason and law. Every nation is bound to give protection to the persons and property of their citizens; but the government is the judge of the measure and degree of that protection; and is not bound to treat for ever, or to fight for ever, to obtain such redress. After having done its best for the indemnity of some individuals, it is bound to consider what is due to the whole community—and to act accordingly; and the unredressed citizens have to put up with their losses if abandoned at the general settlement which, sooner or later, must terminate all national controversies. All this was well stated by Mr. Bibb, of Kentucky, in a speech on these French claims upon the bill of the present year. He said:

"He was well aware that the interests of individuals ought to be supported by their governments to a certain degree, but he did not think that governments were bound to push such interest to the extremity of war—he did not admit that the rights of the whole were to be jeoparded by the claims of individuals—the safety of the community was paramount to the claims of private citizens. He would proceed to see if the interests of our citizens had been neglected by this government. These claims have been urged from year to year, with all the earnestness and zeal due from the nation. But they went on from bad to worse, till negotiations were in vain. We then assumed a hostile position. During the year '98, more than twenty laws were passed by Congress upon this very subject—some for raising troops—some for providing arms and munitions of war—some for fitting out a naval force, and so on. Was this neglecting the claims of our citizens? We went as far as the interests of the nation would permit. We prosecuted these claims to the

very verge of plunging into that dreadful war then desolating Europe. The government then issued its proclamation of neutrality and non-intercourse. Mr. B. next proceeded to show that France had no just claims upon us, arising from the guaranty. This guaranty against France was not considered binding, even by France herself, any further than was consistent with our relations with other nations; that it was so declared by her minister; and, moreover, that she acknowledged the justice of our neutrality. These treaties had been violated by France, and the United States could not surely be bound by treaties which she had herself violated; and consequently, we were under no obligation on account of the guaranty. Mr. B. went on to show that, by the terms of the treaty of 1800, the debts due to our citizens had not been relinquished:—that as the guaranty did not exist, and as the claims had not been abandoned, Mr. B. concluded that these claims ought not to be paid by this government. He was opposed to going back thirty-four years to sit in judgment on the constituted authorities of that time. There should be a stability in the government, and he was not disposed to question the judgment of the man (Washington) who has justly been called the first in war and the first in peace. We are sitting here to rejudge the decisions of the government thirty-four years since."

This is well stated, and the conclusion just and logical, that we ought not to go back thirty-four years to call in question the judgment of Washington's administration. He was looking to the latest date of the claims when he said thirty-four years, which surely was enough; but Washington's decision in his proclamation of neutrality was seven years before that time; and the claims themselves have the year 1800 for their period of limitation—not of commencement, which was many years before. This doctrine of governmental liability when abandoning the claims of citizens for which indemnity could not be obtained, is unknown in other countries, and was unknown in ours in the earlier ages of the government. There was a case of this abandonment in our early history which rested upon no "assumption" of fact, but on the fact itself; and in which no attempt was made to enforce the novel doctrine. It was the case of the slaves carried off by the British troops at the close of the Revolutionary War, and for which indemnity was stipulated in the treaty of peace. Great Britain refused that indemnity; and after vain efforts to obtain it by the Congress of the confederation, and afterwards under Washington's administration, this claim of indemnity, no longer resting upon a claim of the sufferers, but upon a treaty stipulation—upon an article in a treaty for their benefit—was abandoned to obtain a general advantage for the whole community in the commercial treaty with Great Britain. As these claims for French spoliations are still continued (1850), I give some of the speeches for and against them fifteen years ago, believing that they present the strength of the argument on both sides. The opening speech of Mr. Webster presented the case:

"He should content himself with stating very briefly an outline of the grounds on which these claims are supposed to rest, and then leave the subject to the consideration of the Senate. He, however, should be happy, in the course of the debate, to make such explanations as might be called for. It would be seen that the bill proposed to make satisfaction, to an amount not exceeding five millions of dollars, to such citizens of the United States, or their legal representatives, as had valid claims for indemnity on the French government, rising out of illegal captures, detentions, and condemnations, made or committed on their property prior to the 30th day of September, 1800. This bill supposed two or three leading propositions to be true.

"It supposed, in the first place, that illegal seizures, detentions, captures, condemnations and confiscations, were made, of the vessels and property of the citizens of the United States, before the 30th September, 1800.

"It supposed, in the second place, that these acts of wrong were committed by such orders and under such circumstances, as that the sufferers had a just right and claim for indemnity from the hands of the government of France.

"Going on these two propositions, the bill assumed one other, and that was, that all such claims on France as came within a prescribed period, or down to a prescribed period, had been annulled by the United States, and that this gave them a right to claim indemnity from this government. It supposed a liability in justice, in fairness and equity, on the part of this government, to make the indemnity. These were the grounds on which the bill was framed. That there were many such confiscations no one doubted, and many such acts of wrong as were mentioned in the first section of the bill. That they were committed by Frenchmen, and under such circumstances as gave those who suffered wrong an unquestionable right to claim indemnity from the French government, nobody, he supposed, at this day, would question. There were two questions which might be made the subject of discussion, and two only occurred to

him at that moment. The one was, 'On what ground was the government of the United States answerable to any extent for the injury done to these claimants?' The other, 'To what extent was the government in justice bound?' And *first*—of the first. 'Why was it that the government of the United States had become responsible in law or equity to its citizens, for the claims—for any indemnity for the wrongs committed on their commerce by the subjects of France before 1800?'

"To this question there was an answer, which, whether satisfactory or not, had at least the merit of being a very short one. It was, that, by a treaty between France and the United States, bearing date the 30th of September, 1800, in a political capacity, the government of the United States discharged and released the government of France from this indemnity. It went upon the ground, which was sustained by all the correspondence which had preceded the treaty of 1800, that the disputes arising between the two countries should be settled by a negotiation. And claims and pretensions having been asserted on either side, commissioners on the part of the United States were sent out to assert and maintain the claims of indemnity which they demanded; while commissioners appointed on the part of France asserted a claim to the full extent of the stipulations made in '78, which they said the United States had promised to fulfil, and in order to carry into effect the treaty of alliance of the same date, viz.: February, 1778.

"The negotiation ultimately terminated, and a treaty was finally ratified upon the terms and conditions of an offset of the respective claims against each other, and for ever; so that the United States government, by the surrender and discharge of these claims of its citizens, had made this surrender to the French government to obtain for itself a discharge from the onerous liabilities imposed upon them by the treaty of 1778, and in order to escape from fulfilling other stipulations proclaimed in the treaty of commerce of that year, and which, if not fulfilled, might have brought about a war with France. This was the ground on which these claims rested.

"Heretofore, when the subject had been before Congress, gentlemen had taken this view of the case; and he believed there was a report presented to the Senate at the time, which set forth that the claims of our citizens, being left open, the United States had done these claimants no injury, and that it did not exempt the government of France from liability."

Mr. Wright, of New-York, spoke fully against the bill, and upon a close view of all the facts of the case and all the law of the case as growing out of treaties or found in the law of nations. His speech was not only a masterly argument, but an historical monument, going back to the first treaty with France in 1778, and coming down through our legislation and diplomacy on French questions to the time of its delivery. A separate chapter is due to this great speech; and it will be given entire in the next one.

CHAPTER CXVIII.

FRENCH SPOLIATIONS: SPEECH OF MR. WRIGHT, OF NEW-YORK.

"Mr. Wright understood the friends of this bill to put its merits upon the single and distinct ground that the government of the United States had released France from the payment of the claims for a consideration, passing directly to the benefit of our government, and fully equal in value to the claims themselves. Mr. W. said he should argue the several questions presented, upon the supposition that this was the extent to which the friends of the bill had gone, or were disposed to go, in claiming a liability on the part of the United States to pay the claimants; and, thus understood, he was ready to proceed to an examination of the strength of this position.

"His first duty, then, was to examine the relations existing between France and the United States prior to the commencement of the disturbances out of which these claims have arisen; and the discharge of this duty would compel a dry and uninteresting reference to the several treaties which, at that period, governed those relations.

"The seventeenth article of the treaty of amity and commerce of the 6th February, 1778, was the first of these references, and that article was in the following words:

"'*Art.* 17. It shall be lawful for the ships of war of either party, and privateers, freely to carry whithersoever they please the ships and goods taken from their enemies, without being obliged to pay any duty to the officers of the admiralty or any other judges; nor shall such prizes be arrested or seized when they come to or enter the ports of either party; nor shall the searchers or other officers of those places search the same, or make examination concerning the lawfulness of such prizes; but they may hoist sail at any time and depart and carry their prizes to the places expressed in their commissions, which the commanders of such ships of war shall be obliged to show; on the contrary, no shelter or refuge shall be given in their ports to such as shall have made prize of the subjects, people, or property of either of the parties; but if such shall come in, being forced by stress of

weather, or the danger of the sea, all proper means shall be vigorously used, that they go out and retire from thence as soon as possible.'

"This article, Mr. W. said, would be found to be one of the most material of all the stipulations between the two nations, in an examination of the diplomatic correspondence during the whole period of the disturbances, from the breaking out of the war between France and England, in 1793, until the treaty of the 30th September, 1800. The privileges claimed by France, and the exclusions she insisted on as applicable to the other belligerent Powers, were fruitful sources of complaint on both sides, and constituted many material points of disagreement between the two nations through this entire interval. What these claims were on the part of France, and how far they were admitted by the United States, and how far controverted, will, Mr. W. said, be more properly considered in another part of the argument. As connected, however, with this branch of the relations, he thought it necessary to refer to the twenty-second article of the same treaty, which was in the following words:

"'*Art.* 22. It shall not be lawful for any foreign privateers, not belonging to subjects of the Most Christian King, nor citizens of the said United States, who have commissions from any other prince or State in enmity with either nation, to fit their ships in the ports of either the one or the other of the aforesaid parties, to sell what they have taken, or in any other manner whatsoever to exchange their ships, merchandises, or any other lading; neither shall they be allowed even to purchase victuals, except such as shall be necessary for their going to the next port of that prince or State from which they have commissions.'

"Mr. W. said he now passed to a different branch of the relations between the two countries, as established by this treaty of amity and commerce, which was the reciprocal right of either to carry on a free trade with the enemies of the other, restricted only by the stipulations of the same treaty in relation to articles to be considered contraband of war. This reciprocal right is defined in the twenty-third article of the treaty, which is in the words following:

"'*Art.* 23. It shall be lawful for all and singular the subjects of the Most Christian King, and the citizens, people, and inhabitants of the said United States, to sail with their ships with all manner of liberty and security, no distinction being made who are the proprietors of the merchandises laden thereon, from any port to the places of those who now are or hereafter shall be at enmity with the Most Christian King, or the United States. It shall likewise be lawful for the subjects and inhabitants aforesaid to sail with the ships and merchandises aforementioned, and to trade with the same liberty and security from the places, ports, and havens of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy aforementioned to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same prince, or under several. And it is hereby stipulated that free ships shall also give a freedom to goods, and that every thing shall be deemed to be free and exempt which shall be found on board the ships belonging to the subjects of either of the confederates, although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that although they be enemies to both or either party, they are not to be taken out of that free ship, unless they are soldiers and in actual service of the enemies.'

"The restrictions as to articles to be held between the two nations as contraband of war, Mr. W. said, were to be found in the twenty-fourth article of this same treaty of amity and commerce, and were as follows:

"'*Art.* 24. This liberty of navigation and commerce shall extend to all kinds of merchandises, excepting those only which are distinguished by the name of contraband, and under this name of contraband, or prohibited goods, shall be comprehended arms, great guns, bombs, with fuses and other things belonging to them, cannon ball, gunpowder, match, pikes, swords, lances, spears, halberds, mortars, petards, grenades saltpetre, muskets, musket ball, helmets, breastplates, coats of mail, and the like kinds of arms proper for arming soldiers, musket rests, belts, horses with their furniture, and all other warlike instruments whatever. These merchandises which follow shall not be reckoned among contraband or prohibited goods; that is to say, all sorts of cloths, and all other manufactures woven of any wool, flax, silk, cotton, or any other material whatever; all kinds of wearing apparel, together with the species whereof they are used to be made; gold and silver, as well coined as uncoined: tin, iron, latten, copper, brass, coals; as also wheat and barley, and any other kind of corn and pulse: tobacco, and likewise all manner of spices; salted and smoked flesh, salted fish, cheese, and butter, beer, oils, wines, sugars, and all sorts of salts; and, in general, all provisions which serve for the nourishment of mankind, and the sustenance of life; furthermore, all kinds of cotton, hemp, flax, tar, pitch, ropes, cables, sails, sail cloths, anchors, and any part of anchors, also ships' masts, planks, boards, and beams, of what trees soever; and all other things proper either for building or repairing ships, and all other goods whatever which have not been worked into the form of any instrument or thing prepared for war by land or by sea, shall not be reputed contraband, much less such as have been already wrought and made up for any other use: all which shall be wholly reckoned among free goods; as likewise all other merchandises and

things which are not comprehended and particularly mentioned in the foregoing enumeration of contraband goods, so that they may be transported and carried in the freest manner by the subjects of both confederates, even to the places belonging to an enemy, such towns or places being only excepted as are at that time besieged, blocked up, or invested.'

"Mr. W. said this closed his references to this treaty, with the remark, which he wished carefully borne in mind, that the accepted public law was greatly departed from in this last article. Provisions, in their broadest sense, materials for ships, rigging for ships, and indeed almost all the articles of trade mentioned in the long exception in the article of the treaty, were articles contraband of war by the law of nations. This article, therefore, placed our commerce with France upon a footing widely different, in case of a war between France and any third power, from the rules which would regulate that commerce with the other belligerent, with whom we might not have a similar commercial treaty. Such was its effect as compared with our relations with England, with which power we had no commercial treaty whatever, but depended upon the law of nations as our commercial rule and standard of intercourse.

"Mr. W. said he now passed to the treaty of alliance between France and the United States, of the same date with the treaty of amity and commerce before referred to, and his first reference was to the 11th article of this latter treaty. It was in the following words:

"'*Art.* 11. The two parties guarantee mutually from the present time, and for ever, against all other powers, to wit: The United States to His Most Christian Majesty the present possessions of the Crown of France in America, as well as those which it may acquire by the future treaty of peace: And His Most Christian Majesty guarantees on his part to the United States, their liberty, sovereignty, and independence, absolute and unlimited, as well in matters of government as commerce, and also their possessions, and the additions or conquests that their confederation may obtain during the war, from any of the dominions now or heretofore possessed by Great Britain in North America, conformable to the fifth and sixth articles above written, the whole as their possessions shall be fixed and assured to the said States at the moment of the cessation of their present war with England.'

"This article, Mr. W. said, was the most important reference he had made, or could make, so far as the claims provided for by this bill were concerned, because he understood the friends of the bill to derive the principal consideration to the United States, which created their liability to pay the claims, from the guaranty on the part of the United States contained in it. The Senate would see that the article was a mutual and reciprocal guaranty, 1st. On the part of the United States to France, of her possessions in America; and 2d. On the part of France to the United States, of their 'liberty, sovereignty, and independence, absolute and unlimited, as well in matters of government as commerce, and also their possessions,' &c.; and that the respective guarantees were 'for ever.' It would by-and-by appear in what manner this guaranty on the part of our government was claimed to be the foundation for this pecuniary responsibility for millions, but at present he must complete his references to the treaties which formed the law between the two nations, and the rule of their relations to and with each other. He had but one more article to read, and that was important only as it went to define the one last cited. This was the 12th article of the treaty of alliance, and was as follows:

"'*Art.* 12. In order to fix more precisely the sense and application of the preceding article, the contracting parties declare that, in case of a rupture between France and England, the reciprocal guaranty declared in the said article shall have its full force and effect the moment such war shall break out; and if such rupture shall not take place, the mutual obligations of the said guaranty shall not commence until the moment of the cessation of the present war between the United States and England shall have ascertained their possessions.'

"These, said Mr. W., are the treaty stipulations between France and the United States, existing at the time of the commencement of the disturbances between the two countries, which gave rise to the claims now the subject of consideration, and which seem to bear most materially upon the points in issue. There were other provisions in the treaties between the two governments more or less applicable to the present discussion, but, in the course he had marked out for himself, a reference to them was not indispensable, and he was not disposed to occupy the time or weary the patience of the Senate with more of these dry documentary quotations than he found absolutely essential to a full and clear understanding of the points he proposed to examine.

"Mr. W. said he was now ready to present the origin of the claims which formed the subject of the bill. The war between France and England broke out, according to his recollection, late in the year 1792, or early in the year 1793, and the United States resolved upon preserving the same neutral position between those belligerents, which they had assumed at the commencement of the war between France and certain other European powers. This neutrality on the part of the United States seemed to be acceptable to the then French Republic, and her minister in the United States and her diplomatic agents at home were free and distinct in their expressions to this effect.

"Still that Republic made broad claims under the 17th article of the treaty of amity and commerce before quoted, and her minister here assumed the right to purchase ships, arm them as privateers in our ports, commission officers for them, enlist our own citizens to man them

and, thus prepared, to send them from our ports to cruise against English vessels upon our coast. Many prizes were made, which were brought into our ports, submitted to the admiralty jurisdiction conferred by the French Republic upon her consuls in the United States, condemned, and the captured vessels and cargoes exposed for sale in our markets. These practices were immediately and earnestly complained of by the British government as violations of the neutrality which our government had declared, and which we assumed to maintain in regard to all the belligerents, as favors granted to one of the belligerents, not demandable of right under our treaties with France, and as wholly inconsistent, according to the rules of international law, with our continuance as a neutral power. Our government so far yielded to these complaints as to prohibit the French from fitting out, arming, equipping, or commissioning privateers in our ports, and from enlisting our citizens to bear arms under the French flag.

"This decision of the rights of France, under the treaty of amity and commerce, produced warm remonstrances from her minister in the United States, but was finally ostensibly acquiesced in by the Republic, although constant complaints of evasions and violations of the rule continued to harass our government, and to occupy the attention of the respective diplomatists.

"The exclusive privilege of our ports for her armed vessels, privateers, and their prizes, granted to France by the treaty of amity and commerce, as has before been seen, excited the jealousy of England, and she was not slow in sending a portion of her vast navy to line our coast and block up our ports and harbors. The insolence of power induced some of her armed vessels to enter our ports, and to remain, in violation of our treaty with France, though not by the consent of our government, or when we had the power to enforce the treaty by their ejection. These incidents, however, did not fail to form the subject of new charges from the French ministers, of bad faith on our part, of partiality to England to the prejudice of our old and faithful ally, of permitted violations of the treaties, and of an inefficiency and want of zeal in the performance of our duties as neutrals. To give point to these complaints, some few instances occurred in which British vessels brought their prizes into our ports, whether in all cases under those casualties of stress of weather, or the dangers of the sea, which rendered the act in conformity with the treaties and the law of nations or not, is not perhaps very certain or very material, inasmuch as the spirit of complaint seems to have taken possession of the French negotiators, and these acts gave colorable ground to their remonstrances.

"Contemporaneously with these grounds of misunderstanding and these collisions of interest between the belligerents, and between the interests of either of them and the preservation of our neutrality, the French began to discover the disadvantages to them, and the great advantages to the British, of the different rules which governed the commerce between the two nations and the United States. The rule between us and France was the commercial treaty of which the articles above quoted form a part, and the rule between us and Great Britain, was that laid down by the law of nations. Mr. W. said he would detain the Senate to point out but two of the differences between these rules of commerce and intercourse, because upon these two principally depended the difficulties which followed. The first was, that, by the treaty between us and France, 'free ships shall also give a freedom to the goods; and every thing shall be deemed to be free and exempt which shall be found on board the ships belonging to the subjects of either of the confederates, although the whole lading, or any part thereof, should appertain to the enemy of either, contraband goods being always excepted;' while the law of nations, which was the rule between us and England, made the goods of an enemy a lawful prize, though found in the vessel of a friend. Hence it followed that French property on board of an American vessel was subject to capture by British cruisers without indignity to our flag, or a violation to international law, while British property on board of an American vessel could not be captured by a French vessel without an insult to the flag of the United States, and a direct violation of the twenty-third article of the treaty of amity and commerce between us and France, before referred to.

"Mr. W. said the second instance of disadvantage to France which he proposed to mention, was the great difference between the articles made contraband of war by the twenty-fourth article of the treaty of amity and commerce, before read to the Senate, and by the law of nations. By the treaty, provisions of all kinds, ship timber, ship tackle (guns only excepted), and a large list of other articles of trade and commerce, were declared not to be contraband of war, while the same articles are expressly made contraband by the law of nations. Hence an American vessel, clearing for a French port with a cargo of provisions or ship stores, was lawful prize to a British cruiser, as, by the law of nations, carrying articles contraband of war to an enemy, while the same vessel, clearing for a British port, with the same cargo, could not be captured by a French vessel, because the treaty declared that the articles composing the cargo should not be contraband as between the United States and France. Mr. W. said the Senate would see, at a single glance, how eminently these two advantages on the part of Great Britain were calculated to turn our commerce to her ports, where, if the treaty between us and France was observed, our vessels could go in perfect safety, while, laden with provisions, our only considerable export, and destined for a French port, they were liable to capture, as carrying to an enemy contraband articles. Up-

on their return, too, they were equally out of danger from French cruisers, as, by the treaty, free ships made free the goods on board; while, if they cleared from a port in France with a French cargo, they were lawful prize to the British, upon the principle of the law of nations, that the goods of an enemy are lawful prize, even when found in the vessel of a friend.

"Both nations were in constant and urgent want of provisions from the United States; and this double advantage to England of having her ports open and free to our vessels, and of possessing the right to capture those bound to French ports, exasperated the French Republic beyond endurance. Her ministers remonstrated with our government, controverted our construction of British rights, again renewed the accusations of partiality, and finally threw off the obligations of the treaty; and, by a solemn decree of their authorities at home, established the rule which governed the practice of the British cruisers. France, assuming to believe that the United States permitted the neutrality of her flag to be violated by the British, without resistance, declared that she would treat the flag of all neutral vessels as that flag should permit itself to be treated by the other belligerents. This opened our commerce to the almost indiscriminate plunder and depredation of all the powers at war, and but for the want of the provisions of the United States, which was too strongly felt both in England and France not to govern, in a great degree, the policy of the two nations, it would seem probable, from the documentary history of the period, that it must have been swept from the ocean. Impelled by this want, however, the British adopted the rule, at at early day, that the provisions captured, although in a strict legal sense forfeited, as being by the law of nations contraband, should not be confiscated, but carried into English ports, and paid for, at the market price of the same provisions, at the port of their destination. The same want compelled the French, when they came to the conclusion to lay aside the obligations of the treaty, and to govern themselves, not by solemn compacts with friendly powers, but by the standards of wrong adopted by their enemies, to adopt also the same rule, and instead of confiscating the cargo as contraband of war, if provisions, to decree a compensation graduated by the market value at the port of destination.

"Such, said Mr. W., is a succinct view of the disturbances between France and the United States, and between France and Great Britain, out of which grew what are now called the French claims for spoliations upon our commerce, prior to the 30th of September, 1800. Other subjects of difference might have had a remote influence; but, Mr. W., said, he believed it would be admitted by all, that those he had named were the principal, and might be assumed as having given rise to the commercial irregularities in which the claims commenced. This state of things, without material change, continued until the year 1798, when our government adopted a course of measures intended to suspend our intercourse with France, until she should be brought to respect our rights. These measures were persevered in by the United States, up to September, 1800, and were terminated by the treaty between the two nations of the 30th of that month. Here, too, terminated claims which now occupy the attention of the Senate.

"As it was the object of the claimants to show a liability, on the part of our government, to pay their claims, and the bill under discussion assumed that liability, and provided, in part at least, for the payment, Mr. W. said it became his duty to inquire what the government had done to obtain indemnity for these claimants from France, and to see whether negligence on its part had furnished equitable or legal ground for the institution of this large claim upon the national treasury. The period of time covered by the claims, as he understood the subject, was from the breaking out of the war between France and England, in 1793, to the signing of the treaty between France and the United States, in September, 1800; and he would consider the efforts the government had made to obtain indemnity:

"1st. From 1793 to 1798.

"2d. From 1798 to the treaty of the 30th September, 1800.

"During the first period, Mr. W. said, these efforts were confined to negotiation, and he felt safe in the assertion that, during no equal period in the history of our government, could there be found such untiring and unremitted exertions to obtain justice for citizens who had been injured in their properties by the unlawful acts of a foreign power. Any one who would read the mass of diplomatic correspondence between this government and France, from 1793 to 1798 and who would mark the frequent and extraordinary missions, bearing constantly in mind that the recovery of these claims was the only ground upon our part for the whole negotiation, would find it difficult to say where negligence towards the rights and interests of its citizens is imputable to the government of the United States, during this period. He was not aware that such an imputation had been or would be made; but sure he was that it could not be made with justice, or sustained by the facts upon the record. No liability, therefore, equitable or legal, had been incurred, up to the year 1798.

"And if, said Mr. W., negligence is not imputable, prior to 1798, and no liability had then been incurred, how is it for the second period, from 1798 to 1800? The efforts of the former period were negotiation—constant, earnest, extraordinary negotiation. What were they for the latter period? His answer was, war; actual, open war; and he believed the statute book of the United States would justify him in the position. He was well aware that this point would

be strenuously controverted, because the friends of the bill would admit that, if a state of war between the two countries did exist, it put an end to claims existing prior to the war, and not provided for in the treaty of peace, as well as to all pretence for claims to indemnity for injuries to our commerce, committed by our enemy in time of war. Mr. W. said he had found the evidences so numerous, to establish his position that a state of actual war did exist, that he had been quite at a loss from what portion of the testimony of record to make his selections, so as to establish the fact beyond reasonable dispute, and at the same time not to weary the Senate by tedious references to laws and documents. He had finally concluded to confine himself exclusively to the statute book, as the highest possible evidence, as in his judgment entirely conclusive, and as being susceptible of an arrangement and condensation which would convey to the Senate the whole material evidence, in a satisfactory manner, and in less compass than the proofs to be drawn from any other source. He had, therefore, made a very brief abstract of a few statutes, which he would read in his place:

"By an act of the 28th May, 1798, Congress authorized the capture of all armed vessels of France which had committed depredations upon our commerce, or which should be found hovering upon our coast for the purpose of committing such depredations.

"By an act of the 13th June, 1798, only sixteen days after the passage of the former act, Congress prohibited all vessels of the United States from visiting any of the ports of France or her dependencies, under the penalty of forfeiture of vessel and cargo; required every vessel clearing for a foreign port to give bonds (the owner, or factor and master) in the amount of the vessel and cargo, and good sureties in half that amount, conditioned that the vessel to which the clearance was to be granted, would not, voluntarily, visit any port of France or her dependencies; and prohibited all vessels of France, armed or unarmed, or owned, fitted, hired, or employed, by any person resident within the territory of the French Republic, or its dependencies, or sailing or coming therefrom, from entering or remaining in any port of the United States, unless permitted by the President, by special passport, to be granted by him in each case.

"By an act of the 25th June, 1798, only twelve days after the passage of the last-mentioned act, Congress authorized the merchant vessels of the United States to arm, and to defend themselves against any search, restraint, or seizure, by vessels sailing under French colors, to repel force by force to capture any French vessel attempting a search, restraint, or seizure, and to recapture any American merchant vessel which had been captured by the French.

"Here, Mr. W. said, he felt constrained to make a remark upon the character of these several acts of Congress, and to call the attention of the Senate to their peculiar adaptation to the measures which speedily followed in future acts of the national legislature. The first, authorizing the capture of French armed vessels, was peculiarly calculated to put in martial preparation all the navy which the United States then possessed, and to spread it upon our coast. The second, establishing a perfect non-intercourse with France, was sure to call home our merchant vessels from that country and her dependencies, to confine within our own ports those vessels intended for commerce with France, and thus to withdraw from the reach of the French cruisers a large portion of the ships and property of our citizens. The third, authorizing our merchantmen to arm, was the greatest inducement the government could give to its citizens to arm our whole commercial marine, and was sure to put in warlike preparation as great a portion of our merchant vessels as a desire of self-defence, patriotism, or cupidity, would arm. Could measures more eminently calculated to prepare the country for a state of war have been devised or adopted? Was this the intention of those measures, on the part of the government, and was that intention carried out into action? Mr. W. said he would let the subsequent acts of the Congress of the United States answer; and for that purpose, he would proceed to read from his abstract of those acts:

"By an act of the 28th June, 1798, three days after the passage of the act last referred to, Congress authorized the forfeiture and condemnation of all French vessels captured in pursuance of the acts before mentioned, and provided for the distribution of the prize money, and for the confinement and support, at the expense of the United States, of prisoners taken in the captured vessels.

"By an act of the 7th July, 1798, nine days after the passage of the last-recited act, Congress declared 'that the United States are of right freed and exonerated from the stipulations of the treaties and of the consular convention heretofore concluded between the United States and France; and that the same shall not henceforth be regarded as legally obligatory on the government or citizens of the United States.'

"By an act of the 9th July, 1798, two days after the passage of the act declaring void the treaties, Congress authorized the capture, by the public armed vessels of the United States, of all armed French vessels, whether within the jurisdictional limits of the United States or upon the high seas, their condemnation as prizes, their sale, and the distribution of the prize money; empowered the President to grant commissions to private armed vessels to make the same captures, and with the same rights and powers, as public armed vessels; and provided for the safe keeping and support of the prisoners taken, at the expense of the United States.

"By an act of the 9th February, 1799, Congress continued the non-intercourse between the

United States and France for one year, from the 3d of March, 1799.

"By an act of the 28th February, 1799, Congress provided for an exchange of prisoners with France, or authorized the President, at his discretion, to send to the dominions of France, without an exchange, such prisioners as might remain in the power of the United States.

"By an act of the 3d March, 1799, Congress directed the President, in case any citizens of the United States, taken on board vessels belonging to any of the powers at war with France, by French vessels, should be put to death, corporally punished, or unreasonably imprisoned, to retaliate promptly and fully upon any French prisoners in the power of the United States.

"By an act of the 27th February, 1800, Congress again continued the non-intercourse between us and France, for one year, from the 3d of March, 1800.

"Mr. W. said he had now closed the references he proposed to make to the laws of Congress, to prove that war—actual war—existed between the United States and France, from July, 1798, until that war was terminated by the treaty of the 30th of September, 1800. He had, he hoped, before shown that the measures of Congress, up to the passage of the act of Congress of the 25th of June, 1798, and including that act, were appropriate measures preparatory to a state of war; and he had now shown a total suspension of the peaceable relations between the two governments, by the declaration of Congress that the treaties should no longer be considered binding and obligatory upon our government or its citizens. What, then, but war could be inferred from an indiscriminate direction to our public armed vessels, put in a state of preparation, by preparatory acts, to capture all armed French vessels upon the high seas, and from granting commissions to our whole commercial marine, also armed by the operation of previous acts of Congress, authorizing them to make the same captures, with regulations applicable to both, for the condemnation of the prizes, the distribution of the prize money, and the detention, support, and exchange of the prisoners taken in the captured vessels? Will any man, said Mr. W., call this a state of peace?

"[Here Mr. Webster, chairman of the select committee which reported the bill, answered, 'Certainly.']

"Mr. W. proceeded. He said he was not deeply read in the treatises upon national law, and he should never dispute with that learned gentleman upon the technical definitions of peace and war, as given in the books; but his appeal was to the plain sense of every senator and every citizen of the country. Would either call that state of things which he had described, and which he had shown to exist from the highest of all evidence, the laws of Congress alone, peace? It was a state of open and undisguised hostility, of force opposed to force, of war upon the ocean, as far as our government were in command of the means to carry on a maritime war. If it was peace, he should like to be informed, by the friends of the bill, what would be war. This was violence and bloodshed, the power of the one nation against the power of the other, reciprocally exhibited by physical force.

"Couple with this the withdrawal by France of her minister from this government, and her refusal to receive the American commission, consisting of Messrs. Marshall, Pinckney, and Gerry, and the consequent suspension of negotiations between the two governments, during the period referred to; and Mr. W. said, if the facts and the national records did not show a state of war, he was at a loss to know what state of things between nations should be called war.

"If, however, the Senate should think him wrong in this conclusion, and that the claims were not utterly barred by war, he trusted the facts disclosed in this part of his argument would be considered sufficient at least to protect the faith of the government in the discharge of its whole duty to its citizens; and that after it had carried on these two years of war, or, if not war, of actual force and actual fighting, in which the blood of its citizens had been shed, and their lives sacrificed to an unknown extent, for the single and sole purpose of enforcing these claims of individuals, the imputation of negligence, and hence of liability to pay the claims, would not be urged as growing out of this portion of the conduct of the government.

"Mr. W. said he now came to consider the treaty of the 30th September, 1800, and the reasons which appeared plainly to his mind to have induced the American negotiators to place that negotiation upon the basis, not of an existing war, but of a continued peace. That such was assumed to be the basis of the negotiation, he believed to be true, and this fact, and this fact only, so far as he had heard the arguments of the friends of the bill, was depended upon to prove that there had been no war. He had attempted to show that war in fact had existed, and been carried on for two years; and if he could now show that the inducement, on the part of the American ministers, to place the negotiation which was to put an end to the existing hostilities upon a peace basis, arose from no considerations of a national or political character, and from no ideas of consistency with the existing state of facts, but solely from a desire still to save, as far as might be in their power, the interests of these claimants, he should submit with great confidence that it did not lay in the mouths of the same claimants to turn round and claim this implied admission of an absence of war, thus made by the agents of the government out of kindness to them, and an excess of regard for their interests, as the basis of a liability to pay the damages which they had sustained, and which this diplomatic untruth, like all the previous steps of the government, failed to recover for them. What, then, Mr.

President, said Mr. W., was the subject on our part, of the constant and laborious negotiations carried on between the two governments from 1793 to 1798? The claims. What, on our part, was the object of the disturbances from 1798 to 1800—of the non-intercourse—of the sending into service our navy, and arming our merchant vessels—of our raising troops and providing armies on the land—of the expenditure of the millions taken from the treasury and added to our public debt, to equip and sustain these fleets and armies? The claims. Why were our citizens sent to capture the French, to spill their blood, and lay down their lives upon the high seas? To recover the claims. These were the whole matter. We had no other demand upon France, and, upon our part, no other cause of difference with her.

"What public, or national, or political object had we in the negotiation of 1800, which led to the treaty of the 30th September of that year? None, but to put an end to the existing hostilities, and to restore relations of peace and friendship. These could have been as well secured by negotiating upon a war as a peace basis. Indeed, as there were in our former treaties stipulations which we did not want to revive, a negotiation upon the basis of existing war was preferable, so far as the interests of the government were concerned, because that would put all questions, growing out of former treaties between the parties, for ever at rest. Still our negotiators consented to put the negotiation upon the basis of continued peace, and why? Because the adoption of a basis of existing war would have barred effectually and for ever all classes of the claims. This, Mr. W. said, was the only possible assignable reason for the course pursued by the American negotiators; it was the only reason growing out of the existing facts, or out of the interests, public or private, involved in the difficulties between the two nations. He therefore felt himself fully warranted in the conclusion, that the American ministers preferred and adopted a peace basis for the negotiation which resulted in the treaty of the 30th of September, 1800, solely from a wish, as far as they might be able, to save the interests of our citizens holding claims against France.

"Did they, Mr. President, said Mr. W., succeed by this artifice in benefiting the citizens who had sustained injuries? He would let the treaty speak for itself. The following are extracts from the 4th and 5th articles:

"'*Art.* 4. Property captured, and not yet definitively condemned, or which may be captured before the exchange of ratifications (contraband goods destined to an enemy's port excepted), shall be mutually restored on the following proof of ownership.'

"[Here follows the form of proof, when the article proceeds:]

"'This article shall take effect from the date of the signature of the present convention. And if, from the date of the said signature, any property shall be condemned contrary to the intent of the said convention, before the knowledge of this stipulation shall be obtained, the property so condemned shall, without delay, be restored or paid for.'

"'*Art.* 5. The debts contracted for by one of the two nations with individuals of the other, or by individuals of the one with individuals of the other, shall be paid, or the payment may be prosecuted in the same manner as if there had been no misunderstanding between the two States. But this clause shall not extend to indemnities claimed on account of captures or confiscations.'

"Here, Mr. W. said, was evidence from the treaty itself, that, by assuming a peace basis for the negotiation, the property of our merchants captured and not condemned was saved to them, and that certain classes of claimants against the French government were provided for, and their rights expressly reserved. So much, therefore, was gained by our negotiators by a departure from the facts, and negotiating to put an end to existing hostilities upon the basis of a continued peace. Was it, then, generous or just to permit these merchants, because our ministers did not succeed in saving all they claimed, to set up this implied admission of continued peace as the foundation of a liability against their own government to pay what was not recovered from France? He could not so consider it, and he felt sure the country never would consent to so responsible an implication from an act of excessive kindness. Mr. W. said he must not be understood as admitting that all was not, by the effect of this treaty, recovered from France, which she ever recognized to be due, or ever intended to pay. On the contrary, his best impression was, from what he had been able to learn of the claims, that the treaty of Louisiana provided for the payment of all the claims which France ever admitted, ever intended to pay, or which there was the most remote hope of recovering in any way whatever. He should, in a subsequent part of his remarks, have occasion to examine that treaty, the claims which were paid under it, and to compare the claims paid with those urged before the treaty of September, 1800.

"Mr. W. said he now came to the consideration of the liability of the United States to these claimants, in case it shall be determined by the Senate that a war between France and the United States had not existed to bar all ground of claim either against France or the United States. He understood the claimants to put this liability upon the assertion that the government of the United States had released their claims against France by the treaty of the 30th of September, 1800, and that the release was made for a full and valuable consideration passing to the United States, which in law and equity made it their duty to pay the claims. The consideration passing to the United States is alleged to be their release from the onerous obligations imposed

upon them by the treaties of amity and commerce and alliance of 1778, and the consular convention of 1778, and especially and principally by the seventeenth article of the treaty of amity and commerce, in relation to armed vessels, privateers, and prizes, and by the eleventh article of the treaty of alliance containing the mutual guarantees.

"The release, Mr. W. said, was claimed to have been made in the striking out, by the Senate of the United States, of the second article of the treaty of 30th September, 1800, as that article was originally inserted and agreed upon by the respective negotiators of the two powers, as it stood at the time the treaty was signed. To cause this point to be clearly understood, it would be necessary for him to trouble the Senate with a history of the ratification of this treaty. The second article, as inserted by the negotiators, and as standing at the time of the signing of the treaty, was in the following words:

"'*Art.* 2. The ministers plenipotentiary of the two powers not being able to agree, at present, respecting the treaty of alliance of 6th February, 1778, the treaty of amity and commerce of the same date, and the convention of 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further upon these subjects at a convenient time; and, until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows:'

"The residue of the treaty, Mr. W. said, was a substantial copy of the former treaties of amity and commerce, and alliance between the two nations, with such modifications as were desirable to both, and as experience under the former treaties had shown to be for the mutual interests of both.

"This second article was submitted to the Senate by the President as a part of the treaty, as by the constitution of the United States the President was bound to do, to the end that the treaty might be properly ratified on the part of the United States, the French government having previously adopted and ratified it as it was signed by the respective negotiators, the second article being then in the form given above. The Senate refused to advise and consent to this article, and expunged it from the treaty, inserting in its place the following:

"'It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of the ratifications.'

"In this shape, and with this modification, the treaty was duly ratified by the President of the United States, and returned to the French government for its dissent or concurrence. Bonaparte, then First Consul, concurred in the modification made by the Senate, in the following language, and upon the condition therein expressed:

"'The government of the United States having added to its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the government of the French Republic consents to accept, ratify, and confirm the above convention, with the addition, purporting that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *Provided*, That, by this retrenchment, the two States renounce the respective pretensions which are the object of the said article.'

"This ratification by the French Republic, thus qualified, was returned to the United States, and the treaty, with the respective conditional ratifications, was again submitted by the President of the United States to the Senate. That body 'resolved that they considered the said convention as fully ratified, and returned the same to the President for the usual promulgation;' whereupon he completed the ratification in the usual forms and by the usual publication.

"This, Mr. W. said, was the documentary history of this treaty and of its ratification, and here was the release of their claims relied upon by the claimants under the bill before the Senate. They contend that this second article of the treaty, as originally inserted by the negotiators, reserved their claims for future negotiation, and also reserved the subjects of disagreement under the treaties of amity and commerce, and of alliance, of 1778, and the consular convention of 1788; that the seventeenth article of the treaty of amity and commerce, and the eleventh article of the treaty of alliance, were particularly onerous upon the United States; that, to discharge the government from the onerous obligations imposed upon it in these two articles of the respective treaties, the Senate was induced to expunge the second article of the treaty of the 30th September above referred to, and, by consequence, to expunge the reservation of their claims as subjects of future negotiation between the two nations; that, in thus obtaining a discharge from the onerous obligations of these treaties, and especially of the two articles above designated, the United States was benefited to an amount beyond the whole value of the claims discharged, and that this benefit was the inducement to the expunging of the second article of the treaty, with a full knowledge that the act did discharge the claims, and create a legal and equitable obligation on the part of the government to pay them.

"These, Mr. W. said, he understood to be the assumptions of the claimants, and this their course of reasoning to arrive at the conclusion that the United States were liable to them for the amount of their claims. He must here raise a preliminary question, which he had satisfied himself would show these assumptions of the claimants to be wholly without foundation, so far as the idea of benefit to the United States was supposed to be derived from expunging this second article of the treaty of 1800. What, he

must be permitted to ask, would have been the liability of the United States under the 'onerous obligations' referred to, in case the Senate had ratified the treaty, retaining this second article? The binding force of the treaties of amity and commerce, and of alliance, and of the consular convention, was released, and the treaties and convention were themselves suspended by the very article in question; and the subjects of disagreement growing out of them were merely made matters of future negotiation 'at a convenient time.' What was the value or the burden of such an obligation upon the United States? for this was the only obligation from which our government was released by striking out the article. The value, Mr. W. said, was the value of the privilege, being at perfect liberty, in the premises, of assenting to or dissenting from a bad bargain, in a matter of negotiation between ourselves and a foreign power. This was the consideration passing to the United States, and, so far as he was able to view the subject, this was all the consideration the government had received, if it be granted (which he must by no means be understood to admit), that the striking out of the article was a release of the claims, and that such release was intended as a consideration for the benefits to accrue to the government from the act.

"Mr. W. said he felt bound to dwell, for a moment, upon this point. What was the value of an obligation to negotiate 'at a convenient time?' Was it any thing to be valued? The 'convenient time' might never arrive, or if it did arrive, and negotiations were opened, were not the government as much at liberty as in any other case of negotiation, to refuse propositions which were deemed disadvantageous to itself? The treaties were suspended, and could not be revived without the consent of the United States; and, of consequence, the 'onerous obligations' comprised in certain articles of these treaties were also suspended until the same consent should revive them. Could he, then, be mistaken in the conclusion that, if the treaty of 1800 had been ratified with the second article forming a part of it, as originally agreed by the negotiators, the United States would have been as effectually released from the onerous obligations of the former treaties, until those obligations should again be put in force by their consent, as they were released when that article was stricken out, and the treaty ratified without it? In short, could he be mistaken in the position that all the inducement, of a national character, to expunge that article from the treaty, was to get rid of an obligation to negotiate 'at a convenient time?' And could it be possible that such an inducement would have led the Senate of the United States, understanding this consequence, to impose upon the government a liability to the amount of $5,000,000? He could not adopt so absurd a supposition; and he felt himself compelled to say that this view of the action of the government in the ratification of the treaty of 1800, in his mind, put an end to the pretence that the striking out of this article relieved the United States from obligations so onerous as to form a valuable consideration for the payments provided for in this bill. He could not view the obligation released—a mere obligation to negotiate—as onerous at all, or as forming any consideration whatever for a pecuniary liability, much less for a liability for millions.

"Mr. W. said he now proposed to consider whether the effect of expunging the second article of the treaty of 1800 was to release any claim of value—any claim which France had ever acknowledged, or ever intended to pay. He had before shown, by extracts from the fourth and fifth articles of the treaty of 1800, that certain classes of claims were saved by that treaty, as it was ratified. The claims so reserved and provided for were paid in pursuance of provisions contained in the treaty between France and the United States, of the 30th of April, 1803; and to determine what claims were thus paid, a reference to some of the articles of that treaty was necessary. The purchase of Louisiana was made by the United States for the sum of 80,000,000 of francs, 60,000,000 of which were to be paid into the French treasury, and the remaining 20,000,000 were to be applied to the payment of these claims. Three separate treaties were made between the parties, bearing all the same date, the first providing for the cession of the territory, the second for the payment of the 60,000,000 of francs to the French treasury, and the third for the adjustment and payment of the claims.

"Mr. W. said the references proposed were to the last-named treaty, and were the following:

"'*Art.* 1. The debts due by France to citizens of the United States, contracted before the 8th of Vendemiaire, ninth year of the French Republic (30th September, 1800), shall be paid according to the following regulations, with interest at six per cent., to commence from the period when the accounts and vouchers were presented to the French government.'

"'*Art.* 2. The debts provided for by the preceding article are those whose result is comprised in the conjectural note annexed to the present convention, and which, with the interest, cannot exceed the sum of twenty millions of francs. The claims comprised in the said note, which fall within the exceptions of the following articles, shall not be admitted to the benefit of this provision.'

"'*Art.* 4. It is expressly agreed that the preceding articles shall comprehend no debts but such as are due to citizens of the United States, who have been and are yet creditors of France, for supplies, for embargoes, and prizes made at sea, in which the appeal has been properly lodged within the time mentioned in the said convention of the 8th Vendemiaire, ninth year (30th September, 1800).'

"'*Art.* 5. The preceding articles shall apply only, 1st, to captures of which the council of

prizes shall have ordered restitution, it being well understood that the claimant cannot have recourse to the United States otherwise than he might have had to the government of the French Republic, and only in case of the insufficiency of the captors; 2d, the debts mentioned in the said fifth article of the convention, contracted before the 8th Vendemaire, and 9 (30th September, 1800), the payment of which has been heretofore claimed of the actual government of France, and for which the creditors have a right to the protection of the United States; the said fifth article does not comprehend prizes whose condemnation has been or shall be confirmed; it is the express intention of the contracting parties not to extend the benefit of the present convention to reclamations of American citizens, who shall have established houses of commerce in France, England, or other countries than the United States, in partnership with foreigners, and who by that reason and the nature of their commerce, ought to be regarded as domiciliated in the places where such houses exist. All agreements and bargains concerning merchandise, which shall not be the property of American citizens, are equally excepted from the benefit of the said convention, saving, however, to such persons their claims in like manner as if this treaty had not been made.

"From these provisions of the treaty, Mr. W. said, it would appear that the claims to be paid were of three descriptions, to wit:

"1. Claims for supplies.

"2. Claims for embargoes.

"3. Claims for captures made at sea, of a description defined in the last clause of the 4th and the first clause of the 5th article.

"How far these claims embraced all which France ever acknowledged, or ever intended to pay, Mr. W. said he was unable to say, as the time allowed him to examine the case had not permitted him to look sufficiently into the documents to make up his mind with precision upon this point. He had found, in a report made to the Senate on the 14th of January, 1831, in favor of this bill, by the honorable Mr. Livingston, then a Senator from the State of Louisiana, the following classification of the French claims, as insisted on at a period before the making of the treaty of 1800, to wit:

"'1. From the capture and detention of about fifty vessels.

"'2. The detention, for a year, of eighty other vessels, under the Bordeaux embargo.

"'3. The non-payment of supplies to the West India islands, and to continental France.

"'4. For depredations committed on our commerce in the West Indies.'

"Mr. W. said the comparison of the two classifications of claims would show, at a single view, that Nos. 2 and 3 in Mr. Livingston's list were provided for by the treaty of 1803, from which he had read. Whether any, and if any, what portions of Nos. 1 and 4 in Mr. Livingston's list were embraced in No 3 of the provisions of the treaty, as he had numbered them, he was unable to say; but this much he could say, that he had found nothing to satisfy his mind that parts of both those classes of claims were not so included, and therefore provided for and paid under the treaty; nor had he been able to find any thing to show that this treaty of 1803 did not provide for and pay all the claims which France ever acknowledged or ever intended to pay. He was, therefore, unprepared to admit, and did not admit, that any thing of value to any class of individual claimants was released by expunging the second original article from the treaty of the 30th September, 1800. On the contrary, he was strongly impressed with the belief that the adjustment of claims provided for in the treaty of 1803 had gone to the whole extent to which the French government had, at any period of the negotiations, intended to go.

"Mr. W. said this impression was greatly strengthened by the circumstance that the claims under the Bordeaux embargo were expressly provided for in this treaty, while he could see nothing in the treaty of 1800 which seemed to him to authorize the supposition that this class of claims was more clearly embraced within the reservations in that treaty than any class which had been admitted by the French government.

"Another fact, Mr. W. said, was material to this subject, and should be borne carefully in mind by every senator. It was, that not a cent was paid by France, even upon the claims reserved and admitted by the treaty of 1800, until the sale of Louisiana to the United States, for a sum greater by thirty millions of francs than that for which the French minister was instructed to sell it. Yes, Mr. President, said Mr. W., the only payment yet made upon any portion of these claims has been virtually made by the United States; for it has been made out of the consideration money paid for Louisiana, after paying into the French treasury ten millions of francs beyond the price France herself placed upon the territory. It is a singular fact that the French negotiator was instructed to make the sale for fifty millions, if he could get no more; and when he found that, by yielding twenty millions to pay the claims, he could get eighty millions for the territory, and thus put ten millions more into the treasury of his nation than she had instructed him to ask for the whole, he yielded to the claims and closed the treaty. It was safe to say that, but for this speculation in the sale of Louisiana, not one dollar would have been paid upon the claims to this day. All our subsequent negotiations with France of a similar character, and our present relations with that country, growing out of private claims, justify this position. What, then, would have been the value of claims, if such fairly existed, which were not acknowledged and provided for by the treaty of 1800, but were left for future negotiation 'at a convenient

time?' Would they have been worth the five millions of dollars you propose to appropriate by this bill? Would they have been worth further negotiation? He thought they would not.

"Mr. W. said he would avail himself of this occasion, when speaking of the treaty of Louisiana and of its connection with these claims, to explain a mistake into which he had fallen, and which he found from conversation with several gentlemen, who had been for some years members of Congress, had been common to them and to himself. The mistake to which he alluded was, the supposition that the claimants under this bill put their case upon the assumption that their claims had constituted part of the consideration for which Louisiana had been ceded to the United States; and that the consideration they contended the government had received, and upon which its liability rested, was the cession of that territory for a less sum, in money, than was considered to be its value, on account of the release of the French government from those private claims. He had rested under this misapprehension until the opening of the present debate, and until he commenced an examination of the case. He then found that it was an entire misapprehension; that the United States had paid, in money, for Louisiana, thirty millions of francs beyond the price which France had set upon it; that the claimants under this bill did not rest their claims at all upon this basis, and that the friends of the bill in the Senate did not pretend to derive the liability of the government from this source. Mr. W. said he was induced to make this explanation in justice to himself, and because there might be some person within the hearing of his voice who might still be under the same misapprehension.

"He had now, Mr. W. said, attempted to establish the following propositions, viz.:

"1. That a state of actual war, by which he meant a state of actual hostilities and of force, and an interruption of all diplomatic or friendly intercourse between the United States and France, had existed from the time of the passage of the acts of the 7th and 9th of July, 1798, before referred to, until the sending of the negotiators, Ellsworth, Davie, and Murray, in 1800, to make a treaty which put an end to the hostilities existing, upon the best terms that could be obtained; and that the treaty of the 30th of September, 1800, concluded by these negotiators, was, in fact, and so far as private claims were concerned, to be considered as a treaty of peace, and to conclude all such claims, not reserved by it, as finally ratified by the two powers.

"2. That the treaty of amity and commerce, and the treaty of alliance of 1778, as well as the consular convention of 1788, were suspended by the 2d article of the treaty of 1800, and from that time became mere matters for negotiation between the parties at a convenient time; that, therefore, the desire to get rid of these treaties, and of any 'onerous obligations' contained in them, was only the desire to get rid of an obligation to negotiate 'at a convenient time;' and that such a consideration could not have induced the Senate of the United States to expunge that article from the treaty, if thereby that body had supposed it was imposing upon the country a liability to pay to its citizens the sum of five millions of dollars—a sum much larger than France had asked, in money, for a full discharge from the 'onerous obligations' relied upon.

"3. That the treaty of 1800 reserved and provided for certain portions of the claims; that payment, according to such reservations, was made under the treaty of 1803; and that it is at least doubtful whether the payment thus made did not cover all the claims ever admitted, or ever intended to be paid by France; for which reason the expunging of the second article of the treaty of 1800, by the Senate of the United States, in all probability, released nothing which ever had, or which was ever likely to have value.

"Mr. W. said, if he had been successful in establishing either of these positions, there was an end of the claims, and, by consequence, a defeat of the bill.

"The advocates of the bill conceded that two positions must be established, on their part, to sustain it, to wit:

"1. That the claims were valid claims against France, and had never been paid. And

"2. That they were released by the government of the United States for a full and valuable consideration passing to its benefit by means of the release.

"If, then, a state of war had existed, it would not be contended that any claims of this character, not reserved or provided for in the treaty of peace, were valid claims after the ratification of such a treaty. His first proposition, therefore, if sustained, would defeat the bill, by establishing the fact that the claims, if not reserved in the treaty of 1800, were not valid claims.

"The second proposition, if sustained, would establish the fact that, inasmuch as the valuable consideration passing to the United States was alleged to grow out of the 'onerous obligations' in the treaty of amity and commerce, the treaty of alliance, and the consular convention; and inasmuch as these treaties, and all obligations, past, present, or future, 'onerous' or otherwise, growing out of them, were suspended and made inoperative by the second article of the treaty of the 30th of September, 1800, until further negotiation, by the common consent of both powers, should revive them, the Senate of the United States could not have expected, when they expunged this article from the treaty, that, by thus discharging the government from an obligation to negotiate 'at a convenient time,' they were incurring against it a

liability of millions; in other words, the discharge of the government from an obligation to negotiate upon any subject 'at a convenient time,' could not have been considered by the Senate of the United States as a good and valuable consideration for the payment of private claims to the amount of five millions of dollars.

"The third proposition, if sustained, would prove that all the claims ever acknowledged, or ever intended to be paid by France, were paid under the treaty of 1803, and that, therefore, as claims never admitted or recognized by France would scarcely be urged as valid claims against her, no valid claims remained; and, consequently, the expunging of the second article of the treaty of the 30th of September, 1800, released nothing which was valid, and nothing remained to be paid by the United States as a liability incurred by that modification of that treaty. Here Mr. W. said he would rest his reasoning as to these three propositions.

"But if the Senate should determine that he had been wrong in them all, and had failed to sustain either, he had still another proposition, which he considered conclusive and unanswerable, as to any valuable consideration for the release of these claims having passed to the United States in consequence of their discharge from the 'onerous obligations' said to have been contained in the former treaties. These 'onerous obligations,' and the only ones of which he had heard any thing in the course of the debate, or of which he had found any thing in the documents, arose under the 17th article of the treaty of amity and commerce, and the 11th article of the treaty of alliance; and, in relation to both, he laid down this broad proposition, which would be fully sustained by the treaties themselves, and by every act and every expression on the part of the American negotiators, and the government of the United States, viz.:

"'The obligations, liabilities, and responsibilities, imposed upon the government of the United States and upon France by the 17th article of the treaty of amity and commerce of 1778, and by the 11th article of the treaty of alliance of 1778, where mutual, reciprocal, and equal: each formed the consideration, and the only consideration, for the other; and, therefore, any release which discharged both powers from those liabilities, responsibilities, and obligations, must have been mutual, reciprocal, and equal; and the release of either must have formed a full and valuable consideration for the release of the other.'

"Mr. W. said he would not trouble the Senate by again reading the articles from the respective treaties. They would be recollected, and no one would controvert the fact that, when the treaties were made, these articles were intended to contain mutual, reciprocal, and equal obligations. By the first we gave to France the liberty of our ports for her armed vessels, privateers, and prizes, and prohibited all other powers from the enjoyment of the same privilege; and France gave to us the liberty of her ports for our armed vessels, privateers, and prizes, and guarded the privilege by the same prohibition to other powers; and by the second we guaranteed to France, for ever, her possessions in America, and France guaranteed to us, for ever, 'our liberty, sovereignty, and independence, absolute and unlimited, as well in matters of government as commerce.' Such were the obligations in their original inception. Will it be contended that they were not mutual, reciprocal, and equal, and that, in each instance, the one did not form the consideration for the other? Surely no one will take this ground.

"If, then, said Mr. W., the obligations imposed upon each government by these articles of the respective treaties were mutual, reciprocal, and equal, when undertaken, they must have remained equal until abrogated by war, or changed by treaty stipulation. No treaty, subsequent to those which contain the obligations, had affected them in any manner whatever. If, as he had attempted to show, war had existed from July, 1778, to 1800, that would not have rendered the obligations unequal, but would have abrogated them altogether. If, as the friends of the bill contend, there had been no war, and the treaties were in full force up to the signing of the convention of the 30th of September, 1800, what was the effect of that treaty, as originally signed by the negotiators, upon these mutual, reciprocal, and equal obligations? The second original article of that treaty will answer. It did not attempt to disturb their mutuality, reciprocity, or equality, but suspended them as they were, past, present, or future, and made all the subject of future negotiation 'at a convenient time.'

"But, Mr. W. said, the Senate of the United States expunged this article of the treaty of 1800, and refused to advise and consent to ratify it as a part of the treaty; and hence it was contended the United States had discharged themselves from the 'onerous obligations' of these articles in the respective treaties, and had, by that act, incurred, to the claimants under this bill, the heavy liability which it recognizes. If the expunging of that article discharged the United States from obligations thus onerous, did it not discharge France from the fellow obligations? Was not the discharge, made in that manner, as mutual, reciprocal, and equal, as the obligations in their inception, and in all their subsequent stages up to that act? How, then, could it be contended that the discharge of the one was not a full and adequate consideration for the discharge of the other? Nothing upon the face of the treaties authorized the introduction of this inequality at this step in the official proceedings. Nothing in the record of the proceedings of the Senate, when acting upon the article, indicates that they intended to pay five millions of dollars to render this mutual release equal between the two powers. The obligations and responsibilities were reserved as subjects of

future negotiation, upon terms of equality, and the striking out of that reservation was but a mutual and reciprocal and equal release from the obligation further to negotiate. This much for the reciprocity of these obligations as derived from the action of the sovereign powers themselves.

"What was to be learned from the action of their respective negotiators? He did not doubt but that attempts had been made on the part of France to exhibit an inequality in the obligations under the treaty, and to set up that inequality against the claims of our citizens; but had our negotiators ever admitted the inequality to exist, or ever attempted to compromise the rights of the claimants under this bill for such a consideration? He could not find that they had. He did not hear it contended that they had: and, from the evidence of their acts, remaining upon record, as a part of the diplomatic correspondence of the period, he could not suppose they had ever entertained the idea. He had said that the American negotiators had always treated these obligations as mutual, reciprocal, and equal; and he now proposed to read to the Senate a part of a letter from Messrs. Ellsworth, Davie, and Murray, addressed to the French negotiators, and containing the project of a treaty, to justify his assertion. The letter was dated 20th August, 1800, and it would be recollected that its authors were the negotiators, on the part of the United States, of the treaty of the 30th of September, 1800. The extract is as follows:

"'1. Let it be declared that the former treaties are renewed and confirmed, and shall have the same effect as if no misunderstanding between the two powers had intervened, except so far as they are derogated from by the present treaty.

"'2. It shall be optional with either party to pay to the other, within seven years, three millions of francs, in money or securities which may be issued for indemnities, and thereby to reduce the rights of the other as to privateers and prizes, to those of the most favored nation. And during the said term allowed for option, the right of both parties shall be limited by the line of the most favored nation.

"'3. The mutual guaranty in the treaty of alliance shall be so specified and limited, that its future obligation shall be, on the part of France, when the United States shall be attacked, to furnish and deliver at her own ports military stores to the amount of one million of francs; and, on the part of the United States, when the French possessions in America, in any future war, shall be attacked, to furnish and deliver at their own ports a like amount in provisions. It shall, moreover, be optional for either party to exonerate itself wholly of its obligation, by paying to the other, within seven years, a gross sum of five millions of francs, in money or such securities as may be issued for indemnities.'

"Mr. W. asked if he needed further proofs that not only the American government, but the American negotiators, treated these obligations under the treaty as, in all respects, mutual, reciprocal, and equal; and if the fallacy of the argument that the United States had obtained to itself a valuable consideration for the release of these private claims in the release of itself from these obligations, was not utterly and entirely disproved by these facts? Was not the release of the obligations on the one side the release of them on the other? And was not the one release the necessary consideration for the other? How, then, could it be said, with any justice, that we sought our release at the expense of the claimants? There was no reasonable ground for such an allegation, either from the acts of our government or of our negotiators. When the latter fixed a value upon our obligations as to the privateers and prizes, and as to the guaranty, in the same article they fixed the same price, to a franc, upon the reciprocal obligations of France; and when the former discharged our liability, by expunging the second article of the treaty of 1800, the same act discharged the corresponding liability of the French government.

"Here, then, Mr. W. said, must end all pretence of a valuable consideration for these claims passing to the United States from this source. The onerous obligations were mutual, reciprocal, and equal, and the respective releases were mutual, reciprocal, and equal, and simultaneous, and nothing could be fairly drawn from the act which operated these mutual releases to benefit these claimants.

"Mr. W. said he was, then, necessarily brought back to the proposition with which he started in the commencement of his argument, that, if the United States were liable to pay these claimants, that liability must rest upon the broad ground of a failure by the government, after ordinary, and, in this instance, extraordinary efforts to collect the money. The idea of a release of the claims for a valuable consideration passing to the government had been exploded, and, if a liability was to be claimed on account of a failure to collect the money, upon what ground did it rest? What had the government done to protect the rights of these claimants? It had negotiated from 1793 to 1798, with a vigilance and zeal and talent almost unprecedented in the history of diplomacy. It had sent to France minister after minister, and, upon several occasions, extraordinary missions composed of several individuals. Between 1798 and 1800, it had equipped fleets and armies, expended millions in warlike preparation, and finally sent forth its citizens to battle and death, to force the payment of the claims. Were we now to be told, that our failure in these efforts had created a liability against us to pay the money? That the same citizens who had been taxed to pay the expenses of these long negotiations, and of this war for the claims, were to be further taxed to pay such of the claims as we had failed to col

ject? He could never consent to such a deduction from such premises.

"But, Mr. President, said Mr. W., there is another view of this subject, placed upon this basis, which renders this bill of trifling importance in the comparison. If the failure to collect these claims has created the liability to pay them, that liability goes to the extent of the claims proved, and the interest upon them, not to a partial, and perhaps trifling, dividend. Who, then, would undertake to say what amount of claims might not be proved during the state of things he had described, from the breaking out of the war between France and England, in 1793, to the execution of the treaty, in 1800? For a great portion of the period, the municipal regulations of France required the captured cargoes to be not confiscated, but paid for at the market value at the port to which the vessel was destined. Still the capture would be proved, the value of the cargo ascertained, before the commission which the bill proposes to establish; and who would adduce the proof that the same cargo was paid for by the French government?

"This principle, however, Mr. W. said, went much further than the whole subject of the old French claims. It extended to all claims for spoliations upon our commerce, since the existence of the government, which we had failed to collect. Who could say where the liability would end? In how many cases had claims of this character been settled by treaty, what had been collected in each case, and what amount remained unpaid, after the release of the foreign government? He had made an unsuccessful effort to answer these inquiries, so far as the files of the state department would furnish the information, as he had found that it could only be collected by an examination of each individual claim; and this would impose a labor upon the department of an unreasonable character, and would occupy more time than remained to furnish the information for his use upon the present occasion. He had, however, been favored by the Secretary of State with the amounts allowed by the commissioners, the amounts paid, and the rate of pay upon the principal, in two recent cases, the Florida treaty, and the treaty with Denmark. In the former instance, the payment was ninety-one and two thirds per centum upon the principal, while in the latter it was but thirty-one and one eighth per centum. Assume that these two cases are the maximum and minimum of all the cases where releases have been given for partial payments; and he begged the Senate to reflect upon the amounts unpaid which might be called from the national treasury, if the principle were once admitted that a failure to collect creates a liability to pay.

"That in his assumption that a liability of this sort must go to the whole amount of the claims, he only took the ground contended for by the friends of this bill, he would trouble the Senate with another extract from the report of Mr. Livingston, from which he had before read In speaking of the amount which should be appropriated, Mr. Livingston says:

"'The only remaining inquiry is the amount; and on this point the committee have had some difficulty. Two modes of measuring the compensation suggested themselves:

"'1. The actual loss sustained by the petitioners.

"'2. The value of the advantages received, as the consideration, by the United States.

"'The first is the one demanded by strict justice; and is the only one that satisfies the word used by the constitution, which requires just compensation, which cannot be said to have been made when any thing less than the full value is given. But there were difficulties which appeared insurmountable, to the adoption of this rule at the present day, arising from the multiplicity of the claims, the nature of the depredations which occasioned them, the loss of documents, either by the lapse of time, or the wilful destruction of them by the depredators The committee, therefore, could not undertake to provide a specific relief for each of the petitioners. But they have recommended the institution of a board, to enter into the investigation, and apportion a sum which the committee have recommended to be appropriated, *pro rata*, among the several claimants.'

"'The committee could not believe that the amount of compensation to the sufferers should be calculated by the advantages secured to the United States, because it was not, according to their ideas, the true measure. If the property of an individual be taken for public use, and the government miscalculate, and find that the object to which they have applied it has been injurious rather than beneficial, the value of the property is still due to the owner, who ought not to suffer for the false speculations which have been made. A turnpike or canal may be very unproductive; but the owner of the land which has been taken for its construction is not the less entitled to its value. On the other hand, he can have no manner of right to more than the value of his property, be the object to which it has been applied ever so beneficial.'

"Here, Mr. W. said, were two proposed grounds of estimating the extent of the liability of the government to the claimants; and that which graduated it by the value received by the government was distinctly rejected, while that making the amount of the claims the measure of liability, was as distinctly asserted to be the true and just standard. He hoped he had shown, to the satisfaction of the Senate, that the former rule of value received by the government would allow the claimants nothing at all, while he was compelled to say that, upon the broad principle that a failure to collect creates a liability to pay, he could not controvert the correctness of the conclusion that the liability must be commensurate with the claim. He could controvert, he

thought, successfully, the principle, but he could not the measure of damages when the principle was conceded. He would here conclude his remarks upon the points he had noticed, by the earnest declaration that he believed the passage of this bill would open more widely the doors of the public treasury than any legislation of which he had any knowledge, or to which Congress had ever yielded its assent.

"Mr. W. said he had a few observations to offer relative to the mode of legislation proposed, and to the details of the bill, and he would trouble the Senate no further.

"His first objection, under this head, was to the mode of legislation. If the government be liable to pay these claims, the claimants are citizens of the country, and Congress is as accessible to them as to other claimants who have demands against the treasury. Why were they not permitted, individually, to apply to Congress to establish their respective claims, as other claimants were bound to do, and to receive such relief, in each case, as Congress, in its wisdom, should see fit to grant? Why were these claims, more than others, grouped together, and attempted to be made a matter of national importance? Why was a commission to be established to ascertain their validity, a duty in ordinary cases discharged by Congress itself? Were the Senate sure that much of the importance given to these claims had not proceeded from this association, and from the formidable amount thus presented at one view? Would any gentleman be able to convince himself that, acting upon a single claim in this immense mass, he should have given it his favorable consideration? For his part, he considered the mode of legislation unusual and objectionable. His principal objections to the details were, that the second section of the bill prescribed the rules which should govern the commission in deciding upon the claims, among which 'the former treaties between the United States and France' were enumerated; and that the bill contained no declaration that the payments made under it were in full of the claims, or that the respective claimants should execute a release, as a condition of receiving their dividends.

"The first objection was predicated upon the fact that the bill covered the whole period from the making of the treaties of 1778, to that of the 30th September, 1800, and made the former treaties the rule of adjudication, when Congress, on the 7th July, 1798, by a deliberate legislative act, declared those treaties void, and no longer binding upon the United States or their citizens. It is a fact abundantly proved by the documents, that a large portion of the claims now to be paid, arose within the period last alluded to; and that treaties declared to be void should be made the law in determining what were and what were not illegal captures, during the time that they were held to have no force, and when our citizens were authorized by law to go upon the high seas, regardless of their provisions, Mr. W. said, would seem to him to be an absurdity which the Senate would not legalize. He was fully aware that the first section of the bill purported to provide for 'valid claims to indemnity upon the French government, arising out of illegal captures, detentions, forcible seizures, illegal condemnations, and confiscations;' but it could not be overlooked that illegal captures, condemnations, and confiscations, must relate entirely to the law which was to govern the adjudication; and if that law was a void treaty which the claimants were not bound to observe, and did not observe, was it not more than possible that a capture, condemnation, or confiscation, might, by compulsion, be adjudged illegal under the rule fixed by the bill, while that same capture, condemnation, or confiscation, was strictly legal under the laws which governed the commerce of the claimant when the capture was made? He must say that it appeared clear to his mind that the rule of adjudication upon the validity of claims of this description, should, in all cases, be the same rule which governed the commerce out of which the claims have arisen.

"His second objection, Mr. W. said, was made more as a wish that a record of the intentions of the present Congress should be preserved upon the face of the bill, than from any idea that the provision suggested would afford the least protection to the public treasury. Every day's legislation showed the futility of the insertion in an act of Congress of a declaration that the appropriation made should be in full of a claim; and in this, as in other like cases, should this bill pass, he did not expect that it would be, in practice, any thing more than an instalment upon the claims which would be sustained before the commission. The files of the state department would contain the record evidence of the balance, with the admission of the government, in the passage of this bill, that an equal liability remained to pay that balance, whatever it might be. Even a release from the respective claimants he should consider as likely to have no other effect than to change their future applications from a demand of legal right, which they now assume to have, to one of equity and favor; and he was yet to see that the latter would not be as successful as the former. He must give his vote against the bill, whether modified in that particular or not, and he should do so under the most full and clear conviction, that it was a proposition fraught with greater dangers to the public treasury, than any law which had ever yet received the assent of Congress."

CHAPTER CXIX.

FRENCH SPOLIATIONS—MR. WEBSTER'S SPEECH.

"The question, sir, involved in this case, is essentially a judicial question. It is not a question of public policy, but a question of private right; a question between the government and the petitioners: and, as the government is to be judge in its own case, it would seem to be the duty of its members to examine the subject with the most scrupulous good faith, and the most solicitous desire to do justice.

"There is a propriety in commencing the examination of these claims in the Senate, because it was the Senate which, by its amendment of the treaty of 1800, and its subsequent ratification of that treaty, and its recognition of the declaration of the French government, effectually released the claims as against France, and for ever cut off the petitioners from all hopes of redress from that quarter. The claims, as claims against our own government, have their foundation in these acts of the Senate itself; and it may certainly be expected that the Senate will consider the effects of its own proceedings, on private rights and private interests, with that candor and justice which belong to its high character.

"It ought not to be objected to these petitioners, that their claim is old, or that they are now reviving any thing which has heretofore been abandoned. There has been no delay which is not reasonably accounted for. The treaty by which the claimants say their claims on France for these captures and confiscations were released was concluded in 1800. They immediately applied to Congress for indemnity, as will be seen by the report made in 1802, in the House of Representatives, by a committee of which a distinguished member from Virginia, not now living [Mr. Giles], was chairman.

"In 1807, on the petition of sundry merchants and others, citizens of Charleston, in South Carolina, a committee of the House of Representatives, of which Mr. Marion, of that State, was chairman, made a report, declaring that the committee was of opinion that the government of the United States was bound to indemnify the claimants. But at this time our affairs with the European powers at war had become exceedingly embarrassed; our government had felt itself compelled to withdraw our commerce from the ocean; and it was not until after the conclusion of the war of 1812, and after the general pacification of Europe, that a suitable opportunity occurred of presenting the subject again to the serious consideration of Congress. From that time the petitioners have been constantly before us, and the period has at length arrived proper for a final decision of their case.

"Another objection, sir, has been urged against these claims, well calculated to diminish the favor with which they might otherwise be received, and which is without any substantial foundation in fact. It is, that a great portion of them has been bought up, as a matter of speculation, and it is now holden by these purchasers. It has even been said, I think, on the floor of the Senate, that nine tenths, or ninety hundredths, of all the claims are owned by speculators.

"Such unfounded statements are not only wholly unjust towards these petitioners themselves, but they do great mischief to other interests. I have observed that a French gentleman of distinction, formerly a resident in this country, is represented in the public newspapers as having declined the offer of a seat in the French administration, on the ground that he could not support the American treaty; and he could not support the treaty because he had learned, or heard, while in America, that the claims were no longer the property of the original sufferers, but had passed into unworthy hands. If any such thing has been learned in the United States, it has been learned from sources entirely incorrect. The general fact is not so; and this prejudice, thus operating on a great national interest—an interest in regard to which we are in danger of being seriously embroiled with a foreign state—was created, doubtless, by the same incorrect and unfounded assertions which have been made relative to this other class of claims.

"In regard to both classes, and to all classes of claims of American citizens on foreign governments, the statement is at variance with the facts. Those who make it have no proof of it. On the contrary, incontrovertible evidence exists of the truth of the very reverse of this statement. The claims against France, since 1800, are now in the course of adjudication. They are all, or very nearly all, presented to the proper tribunal. Proofs accompany them, and the rules of the tribunal require that, in each case, the true ownership should be fully and exactly set out, on oath; and be proved by the papers, vouchers, and other evidence. Now, sir, if any man is acquainted, or will make himself acquainted, with the proceedings of this tribunal, so far as to see who are the parties claiming the indemnity, he will see the absolute and enormous error of those who represent these claims to be owned, in great part, by speculators.

"The truth is, sir, that these claims, as well those since 1800 as before, are owned and possessed by the original sufferers, with such changes only as happen in regard to all other property. The original owner of ship and cargo his representative, where such owner is dead underwriters who have paid losses on account of captures and confiscations; and creditors of insolvents and bankrupts who were interested in the claims—these are the descriptions of persons who, in all these cases, own vastly the larger portion of the claims. This is true of

the claims on Spain, as is most manifest from the proceedings of the commissioners under the Spanish treaty. It is true of the claims on France arising since 1800, as is equally manifest by the proceedings of the commissioners now sitting; and it is equally true of the claims which are the subject of this discussion, and provided for in this bill. In some instances claims have been assigned from one to another, in the settlement of family affairs. They have been transferred, in other instances, to secure or to pay debts; they have been transferred, sometimes, in the settlement of insurance accounts; and it is probable there are a few cases in which the necessities of the holders have compelled them to sell them. But nothing can be further from the truth than that they have been the general subjects of purchase and sale, and that they are now holden mainly by purchasers from the original owners. They have been compared to the unfunded debt. But that consisted in scrip, of fixed amount, and which passed from hand to hand by delivery. These claims cannot so pass from hand to hand. In each case, not only the value but the amount is uncertain. Whether there be any claim, is in each case a matter for investigation and proof; and so is the amount, when the justice of the claim itself is established. These circumstances are of themselves quite sufficient to prevent the easy and frequent transfer of the claims from hand to hand. They would lead us to expect that to happen which actually has happened; and that is, that the claims remain with their original owners, and their legal heirs and representatives, with such exceptions as I have already mentioned. As to the portion of the claims now owned by underwriters, it can hardly be necessary to say that they stand on the same equity and justice as if possessed and presented by the owners of ships and goods. There is no more universal maxim of law and justice, throughout the civilized and commercial world, than that an underwriter, who has paid a loss on ships or merchandise to the owner, is entitled to whatever may be received from the property. His right accrues by the very act of payment; and if the property, or its proceeds, be afterwards recovered, in whole or in part, whether the recovery be from the sea, from captors, or from the justice of foreign states, such recovery is for the benefit of the underwriter. Any attempt, therefore, to prejudice these claims, on the ground that many of them belong to insurance companies, or other underwriters, is at war with the first principles of justice.

"A short, but accurate, general view of the history and character of these claims is presented in the report of the Secretary of State, on the 20th of May, 1826, in compliance with a resolution of the Senate. Allow me, sir, to read the paragraphs:

"'The Secretary can hardly suppose it to have been the intention of the resolution to require the expression of an argumentative opinion as to the degree of responsibility to the American sufferers from French spoliations, which the convention of 1800 extinguished, on the part of France, or devolved on the United States, the Senate itself being most competent to decide that question. Under this impression, he hopes that he will have sufficiently conformed to the purposes of the Senate, by a brief statement, prepared in a hurried moment, of what he understands to be the question.

"'The second article of the convention of 1800 was in the following words: "The ministers plenipotentiary of the two parties, not being able to agree, at present, respecting the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects, at a convenient time; and, until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows."

"'When that convention was laid before the Senate, it gave its consent and advice that it should be ratified, provided that the second article be expunged, and that the following article be added or inserted: "It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of the ratifications;" and it was accordingly so ratified by the President of the United States, on the 18th day of February, 1801. On the 31st of July of the same year, it was ratified by Bonaparte, First Consul of the French Republic, who incorporated in the instrument of his ratification the following clause as part of it: "The government of the United States, having added to its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the government of the French Republic consents to accept, ratify, and confirm the above convention, with the addition, importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *Provided*, That, by this retrenchment, the two states renounce the respective pretensions which are the object of the said article."

"'The French ratification being thus conditional, was, nevertheless, exchanged against that of the United States, at Paris, on the same 31st of July. The President of the United States considering it necessary again to submit the convention, in this state, to the Senate, on the 19th day of December, 1801, it was resolved by the Senate that they considered the said convention as fully ratified, and returned it to the President for the usual promulgation. It was accordingly promulgated, and thereafter regarded as a valid and binding compact. The two contracting parties thus agreed, by the retrenchment of the second article, mutually to renounce the respective pretensions which were the ob-

ject of that article. The pretensions of the United States, to which allusion is thus made, arose out of the spoliations under color of French authority, in contravention of law and existing treaties. Those of France sprung from the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788. Whatever obligations or indemnities, from these sources, either party had a right to demand, were respectively waived and abandoned; and the consideration which induced one party to renounce his pretensions, was that of renunciation by the other party of his pretensions. What was the value of the obligations and indemnities, so reciprocally renounced, can only be matter of speculation. The amount of the indemnities due to the citizens of the United States was very large; and, on the other hand, the obligation was great (to specify no other French pretensions), under which the United States were placed, in the eleventh article of the treaty of alliance of the 6th of February, 1778, by which they were bound for ever to guarantee from that time the then possessions of the Crown of France in America, as well as those which it might acquire by the future treaty of peace with Great Britain; all these possessions having been, it is believed, conquered at, or not long after, the exchange of the ratifications of the convention of September, 1800, by the arms of Great Britain, from France.

"'The fifth article of the amendments to the constitution provides: "Nor shall private property be taken for public use, without just compensation." If the indemnities to which citizens of the United States were entitled for French spoliations prior to the 30th of September, 1800, have been appropriated to absolve the United States from the fulfilment of an obligation which they had contracted, or from the payment of indemnities which they were bound to make to France, the Senate is most competent to determine how far such an appropriation is a public use of private property within the spirit of the constitution, and whether equitable considerations do not require some compensation to be made to the claimants. The Senate is also best able to estimate the probability which existed of an ultimate recovery from France of the amount due for those indemnities, if they had not been renounced; in making which estimate, it will, no doubt, give just weight to the painful consideration that repeated and urgent appeals have been, in vain, made to the justice of France for satisfaction of flagrant wrongs committed upon property of other citizens of the United States, subsequent to the period of the 30th of September, 1800.'

"Before the interference of our government with these claims, they constituted just demands against the government of France. They were not vague expectations of possible future indemnity for injuries received, too uncertain to be regarded as valuable, or be esteemed property. They were just demands, and, as such, they were property. The courts of law took notice of them as property. They were capable of being devised, of being distributed among heirs and next of kin, and of being transferred and assigned, like other legal and just debts. A claim or demand for a ship unjustly seized and confiscated is property, as clearly as the ship itself. It may not be so valuable, or so certain; but it is as clear a right, and has been uniformly so regarded by the courts of law. The papers show that American citizens had claims against the French government for six hundred and fifteen vessels unlawfully seized and confiscated. If this were so, it is difficult to see how the government of the United States can release these claims for its own benefit, with any more propriety than it could have applied the money to its own use, if the French government had been ready to make compensation, in money, for the property thus illegally seized and confiscated; or how the government could appropriate to itself the just claims which the owners of these six hundred and fifteen vessels held against the wrong-doers, without making compensation, any more than it could appropriate to itself, without making compensation, six hundred and fifteen ships which had not been seized. I do not mean to say that the rate of compensation should be the same in both cases; I do not mean to say that a claim for a ship is of as much value as a ship; but I mean to say that both the one and the other are property, and that government cannot, with justice, deprive a man of either, for its own benefit, without making a fair compensation.

"It will be perceived at once, sir, that these claims do not rest on the ground of any neglect or omission, on the part of the government of the United States, in demanding satisfaction from France. That is not the ground. The government of the United States, in that respect, performed its full duty. It remonstrated against these illegal seizures; it insisted on redress; it sent two special missions to France, charged expressly, among other duties, with the duty of demanding indemnity. But France had her subjects of complaint, also, against the government of the United States, which she pressed with equal earnestness and confidence, and which she would neither postpone nor relinquish, except on the condition that the United States would postpone or relinquish these claims. And to meet this condition, and to restore harmony between the two nations, the United States did agree, first to postpone, and afterwards to relinquish, these claims of its own citizens. In other words, the government of the United States bought off the claims of France against itself, by discharging claims of our own citizens against France.

"This, sir, is the ground on which these citizens think they have a claim for reasonable indemnity against their own government. And now, sir, before proceeding to the disputed

part of the case, permit me to state what is admitted.

"In the first place, then, it is universally admitted that these petitioners once had just claims against the government of France, on account of these illegal captures and condemnations.

"In the next place, it is admitted that these claims no longer exist against France; that they have, in some way, been extinguished or released, as to her; and that she is for ever discharged from all duty of paying or satisfying them, in whole or in part.

"These two points being admitted, it is then necessary, in order to support the present bill, to maintain four propositions:

"1. That these claims subsisted against France up to the time of the treaty of September, 1800, between France and the United States.

"2. That they were released, surrendered, or extinguished by that treaty, its amendment in the Senate, and the manner of its final ratification.

"3. That they were thus released, surrendered, or extinguished, for political and national considerations, for objects and purposes deemed important to the United States, but in which these claimants had no more interest than any other citizens.

"4. That the amount or measure of indemnity proposed by this bill is no more than a fair and reasonable compensation, so far as we can judge by what has been done in similar cases.

"1. Were these subsisting claims against France up to the time of the treaty? It is a conclusive answer to this question, to say that the government of the United States insisted that they did exist, up to the time of the treaty, and demanded indemnity for them, and that the French government fully admitted their existence, and acknowledged its obligation to make such indemnity.

"The negotiation, which terminated in the treaty, was opened by a direct proposition for indemnity, made by our ministers, the justice and propriety of which was immediately acceded to by the ministers of France.

"On the 7th of April, 1800, in their first letter to the ministers of France, Messrs. Ellsworth, Davie, and Murray, say:

"'Citizen ministers:—The undersigned, appreciating the value of time, and wishing by frankness to evince their sincerity, enter directly upon the great object of their mission—an object which they believe may be best obtained by avoiding to retrace minutely the too well-known and too painful incidents which have rendered a negotiation necessary.

"'To satisfy the demands of justice, and render a reconciliation cordial and permanent, they propose an arrangement, such as shall be compatible with national honor and existing circumstances, to ascertain and discharge the equitable claims of the citizens of either nation upon the other, whether founded on contract, treaty, or the law of nations. The way being thus prepared, the undersigned will be at liberty to stipulate for that reciprocity and freedom of commercial intercourse between the two countries which must essentially contribute to their mutual advantage.

"'Should this general view of the subject be approved by the ministers plenipotentiary to whom it is addressed, the details, it is presumed, may be easily adjusted, and that confidence restored which ought never to have been shaken.'

"To this letter the French ministers immediately returned the following answer:

"'The ministers plenipotentiary of the French Republic have read attentively the proposition for a plan of negotiation which was communicated to them by the envoys extraordinary and ministers plenipotentiary of the United States of America.

"'They think that the first object of the negotiation ought to be the determination of the regulations, and the steps to be followed for the estimation and indemnification of injuries for which either nation may make claim for itself, or for any of its citizens. And that the second object is to assure the execution of treaties of friendship and commerce made between the two nations, and the accomplishment of the views of reciprocal advantages which suggested them.'

"It is certain, therefore, that the negotiation commenced in the recognition, by both parties, of the existence of individual claims, and of the justice of making satisfaction for them; and i is equally clear that, throughout the whole ne gotiation, neither party suggested that these claims had already been either satisfied or extinguished; and it is indisputable that the treaty itself, in the second article, expressly admitted their existence, and solemly recognized the duty of providing for them at some future period.

"It will be observed, sir, that the French negotiators, in their first letter, while they admit the justice of providing indemnity for individual claims, bring forward, also, claims arising under treaties; taking care, thus early, to advance the pretensions of France on account of alleged violations by the United States of the treaties of 1778. On that part of the case, I shall say something hereafter; but I use this first letter of the French ministers at present only to show that, from the first, the French government admitted its obligation to indemnify individuals who had suffered wrongs and injuries.

"The honorable member from New-York [Mr. Wright] contends, sir, that, at the time of concluding the treaty, these claims had ceased to exist. He says that a war had taken place between the United States and France, and by the war the claims had become extinguished. I differ from the honorable member, both as to the fact of war, and as to the consequences to be deduced from it, in this case, even if public war had existed. If we admit, for argument sake, that war had existed, yet we find that, on the

restoration of amity, both parties admit the justice of these claims and their continued existence, and the party against which they are preferred acknowledges her obligation, and expresses her willingness to pay them. The mere fact of war can never extinguish any claim. If, indeed, claims for indemnity be the professed ground of a war, and peace be afterwards concluded without obtaining any acknowledgment of the right, such a peace may be construed to be a relinquishment of the right, on the ground that the question has been put to the arbitration of the sword, and decided. But, if a war be waged to enforce a disputed claim, and it be carried on till the adverse party admit the claim, and agree to provide for its payment, it would be strange, indeed, to hold that the claim itself was extinguished by the very war which had compelled its express recognition. Now, whatever we call that state of things which existed between the United States and France from 1798 to 1800, it is evident that neither party contended or supposed that it had been such a state of things as had extinguished individual claims for indemnity for illegal seizures and confiscations.

"The honorable member, sir, to sustain his point, must prove that the United States went to war to vindicate these claims; that they waged that war unsuccessfully; and that they were therefore glad to make peace, without obtaining payment of the claims, or any admission of their justice. I am happy, sir, to say that, in my opinion, facts do not authorize any such record to be made up against the United States. I think it is clear, sir, that whatever misunderstanding existed between the United States and France, it did not amount, at any time, to open and public war. It is certain that the amicable relations of the two countries were much disturbed; it is certain that the United States authorized armed resistance to French captures, and the captures of French vessels of war found hovering on our coast; but it is certain, also, not only that there was no declaration of war, on either side, but that the United States, under all their provocations, did never authorize general reprisals on French commerce. At the very moment when the gentleman says war raged between the United States and France, French citizens came into our courts, in their own names, claimed restitution for property seized by American cruisers, and obtained decrees of restitution. They claimed as citizens of France and obtained restoration, in our courts, as citizens of France. It must have been a singular war, sir, in which such proceedings could take place. Upon a fair view of the whole matter, Mr. President, it will be found, I think, that every thing done by the United States was defensive. No part of it was ever retaliatory. The United States do not take justice into their own hands.

"The strongest measure, perhaps, adopted by Congress, was the act of May 28, 1798. The honorable member from New-York has referred to this act, and chiefly relies upon it, to prove the existence, or the commencement, of actual war. But does it prove either the one or the other?

"It is not an act declaring war; it is not an act authorizing reprisals; it is not an act which, in any way, acknowledges the actual existence of war. Its whole implication and import is the other way. Its title is, 'An act more effectually to protect the commerce and coasts of the United States.'

"This is its preamble:

"'Whereas armed vessels, sailing under authority, or pretence of authority, from the Republic of France, have committed depredations on the commerce of the United States, and have recently captured the vessels and property of citizens thereof, on and near the coasts, in violation of the law of nations, and treaties between the United States and the French nation: therefore'—

"And then follows its only section, in these words:

"'Sec. 1. *Be it enacted, &c.*, That it shall be lawful for the President of the United States, and he is hereby authorized, to instruct and direct the commanders of the armed vessels belonging to the United States, to seize, take, and bring into any port of the United States, to be proceeded against according to the laws of nations, any such armed vessel which shall have committed, or which shall be found hovering on the coasts of the United States for the purpose of committing, depredations on the vessels belonging to citizens thereof; and also retake any ship or vessel, of any citizen or citizens of the United States, which may have been captured by any such armed vessel.'

"This act, it is true, authorized the use of force, under certain circumstances, and for certain objects, against French vessels. But there may be acts of authorized force, there may be assults, there may be battles, there may be captures of ships and imprisonment of persons, and yet no general war. Cases of this kind may occur under that practice of retortion which is justified, when adopted for just cause, by the laws and usages of nations, and which all the writers distinguish from general war.

"The first provision in this law is purely preventive and defensive; and the other hardly goes beyond it. Armed vessels hovering on our coast, and capturing our vessels, under authority, or pretence of authority, from a foreign state, might be captured and brought in, and vessels already seized by them retaken. The act is limited to armed vessels; but why was this, if general war existed? Why was not the naval power of the country let loose at once, if there were war, against the commerce of the enemy? The cruisers of France were preying on our commerce; if there was war, why were we restrained from general reprisals on her commerce? This restaining of the operation of our naval marine to armed vessels of France, and to such of them only as should be found hovering on our

coast, for the purpose of committing depredations on our commerce, instead of proving a state of war, proves, I think, irresistibly, that a state of general war did not exist. But even if this act of Congress left the matter doubtful, other acts passed at and near the same time demonstrate the understanding of Congress to have been, that although the relations between the two countries were greatly disturbed, yet that war did not exist. On the same day (May 28, 1798) in which this act passed, on which the member from New-York lays so much stress, as proving the actual existence of war with France, Congress passed another act, entitled 'An act authorizing the President of the United States to raise a provisional army;' and the first section declared that the President should be authorized, 'in the event of a declaration of war against the United States, or of actual invasion of their territory by a foreign power, or of imminent danger of such invasion, to cause to be enlisted,' &c., ten thousand men.

"On the 16th of July following, Congress passed the law for augmenting the army, the second section of which authorized the President to raise twelve additional regiments of infantry, and six troops of light dragoons, 'to be enlisted for and during the continuance of the existing differences between the United States and the French Republic, unless sooner discharged,' &c.

"The following spring, by the act of the 2d of March, 1799, entitled 'An act giving eventual authority to the President of the United States to augment the army,' Congress provided that it should be lawful for the President of the United States, in case war should break out between the United States and a foreign European power, &c., to raise twenty-four regiments of infantry, &c. And in the act for better organizing the army, passed the next day, Congress repeats the declaration, contained in a former act, that certain provisions shall not take effect unless war shall break out between the United States and some European prince, potentate, or state.

"On the 20th of February, 1800, an act was passed to suspend the act for augmenting the army; and this last act declared that further enlistments should be suspended until the further order of Congress, unless in the recess of Congress, and during the continuance of the existing differences between the United States and the French Republic, war should break out between the United States and the French Republic, or imminent danger of an invasion of their territory by the said Republic should be discovered.

"On the 14th of May, 1800, four months before the conclusion of the treaty, Congress passed an act authorizing the suspension of military appointments, and the discharge of troops under the provisions of the previous laws. No commentary is necessary, sir, on the texts of these statutes, to show that Congress never recognized the existence of war between the United States and France. They apprehended war might break out; and they made suitable provision for that exigency, should it occur; but it is quite impossible to reconcile the express and so often repeated declarations of these statutes, commencing in 1798, running through 1799, and ending in 1800, with the actual existence of war between the two countries at any period within those years.

"The honorable member's second principal source of argument, to make out the fact of a state of war, is the several non-intercourse acts. And here again it seems to me an exactly opposite inference is the true one. In 1798, 1799, and 1800, acts of Congress were passed suspending the commercial intercourse between the United States, each for one year. Did any government ever pass a law of temporary non-intercourse with a public enemy? Such a law would be little less than an absurdity. War itself effectually creates non-intercourse. It renders all trade with the enemy illegal, and, of course, subjects all vessels found so engaged, with their cargoes, to capture and condemnation as enemy's property. The first of these laws was passed June 13, 1798, the last, February 27, 1800. Will the honorable member from New-York tell us when the war commenced? When did it break out? When did those 'differences,' of which the acts of Congress speak, assume a character of general hostility? Was there a state of war on the 13th of June, 1798, when Congress passed the first non-intercourse act; and did Congress, in a state of public war, limit non-intercourse with the enemy to one year? Or was there a state of peace in June, 1798? and, if so, I ask again, at what time after that period, and before September, 1800, did the war break out? Difficulties of no small magnitude surround the gentleman, I think, whatever course he takes through these statutes, while he attempts to prove from them a state of war. The truth is, they prove, incontestably, a state of peace; a state of endandgered, disturbed, agitated peace; but still a state of peace. Finding themselves in a state of great misunderstanding and contention with France, and seeing our commerce a daily prey to the rapacity of her cruisers, the United States preferred non-intercourse to war. This is the ground of the non-intercourse acts. Apprehending, nevertheless, that war might break out, Congress made prudent provision for it by augmenting the military force of the country. This is the ground of the laws for raising a provisional army. The entire provisions of all these laws necessarily suppose an existing state of peace; but they imply also an apprehension that war might commence. For a state of actual war they were all unsuited; and some of them would have been, in such a state, preposterous and absurd. To a state of present peace, but disturbed, interrupted, and likely to terminate in open hostilities, they were all perfectly well adapted. And as many of these acts, in express terms, speak of war as not actually existing, but as likely or liable to break out, it is

clear, beyond all reasonable question, that Congress never, at any time, regarded the state of things existing between the United States and France as being a state of war.

"As little did the executive government so regard it, as must be apparent from the instructions given to our ministers, when the mission was sent to France. Those instructions, having recurred to the numerous acts of wrong committed on the commerce of the United States, and the refusal of indemnity by the government of France, proceed to say: 'This conduct of the French Republic would well have justified an immediate declaration of war on the part of the United States; but, desirous of maintaining peace, and still willing to leave open the door of reconciliation with France, the United States contented themselves with preparations for defence, and measures calculated to protect their commerce.'

"It is equally clear, on the other hand, that neither the French government nor the French ministers acted on the supposition that war had existed between the two nations. And it was for this reason that they held the treaties of 1778 still binding. Within a month or two of the signature of the treaty, the ministers plenipotentiary of the French Republic write thus to Messrs. Ellsworth, Davie, and Murray: 'In the first place, they will insist upon the principle already laid down in their former note, viz.: that the treaties which united France and the United States are not broken; that even war could not have broken them; but that the state of misunderstanding which existed for some time between France and the United States, by the act of some agents rather than by the will of the respective governments, has not been a state of war, at least on the side of France.'

"Finally, sir, the treaty itself, what is it? It is not called a treaty of peace; it does not provide for putting an end to hostilities. It says not one word of any preceding war; but it does say that 'differences' have arisen between the two states, and that they have, therefore, respectively, appointed their plenipotentiaries, and given them full powers to treat upon those 'differences,' and to terminate the same.

"But the second article of the treaty, as negotiated and agreed on by the ministers of both governments, is, of itself, a complete refutation of the whole argument which is urged against this bill, on the ground that the claims had been extinguished by war, since that article distinctly and expressly acknowledges the existence of the claims, and contains a solemn pledge that the two governments, not being able to agree on them at present, will negotiate further on them, at convenient time thereafter. Whether we look, then, to the decisions of the American courts, to the acts of Congress, to the instructions of the American executive government, to the language of our ministers, to the declarations of the French government and the French ministers, or to the unequivocal language of the treaty itself, as originally agreed to, we meet irresistible proof of the truth of the declaration, that the state of misunderstanding which had existed between the two countries was not war.

"If the treaty had remained as the ministers on both sides agreed upon it, the claimants, though their indemnity was postponed, would have had no just claim on their own government. But the treaty did not remain in this state. This second article was stricken out by the Senate; and, in order to see the obvious motive of the Senate in thus striking out the second article, allow me to read the whole article. It is in these words:

"'The ministers plenipotentiary of the two parties not being able to agree, at present, respecting the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows.'

"The article thus stipulating to make the claims of France, under the old treaties, matter of further negotiation, in order to get rid of such negotiation, and the whole subject, the Senate struck out the entire article, and ratified the treaty in this corrected form. France ratified the treaty, as thus amended, with the further declaration that, by thus retrenching the second article, the two nations renounce the respective pretensions which were the object of the article. In this declaration of the French government, the Senate afterwards acquiesced; so that the government of France, by this retrenchment, agreed to renounce her claims under the treaties of 1778, and the United States, in like manner, renounced the claims of their citizens for indemnities due to them.

"And this proves, sir, the second proposition which I stated at the commencement of my remarks, viz.: that these claims were released, relinquished, or extinguished, by the amendment of the treaty, and its ratification as amended. It is only necessary to add, on this point, that these claims for captures before 1800 would have been good claims under the late treaty with France, and would have come in for a dividend in the fund provided by that treaty, if they had not been released by the treaty of 1800. And they are now excluded from all participation in the benefit of the late treaty, because of such release or extinguishment by that of 1800.

"In the third place, sir, it is to be proved, if it be not proved already, that these claims were surrendered, or released by the government of the United States, on national considerations, and for objects in which these claimants had no more interest than any other citizens.

"Now, sir, I do not feel called on to make out that the claims and complaints of France against the government of the United States were well founded. It is certain that she put forth such claims and complaints, and insisted on them to the end. It is certain that, by the treaty of alliance of 1778, the United States did guaranty to France her West India possessions. It is certain that, by the treaty of commerce of the same date, the United States stipulated that French vessels of war might bring their prizes into the ports of the United States, and that the enemies of France should not enjoy that privilege; and it is certain that France contended that the United States had plainly violated this article, as well by their subsequent treaty with England as by other acts of the government. For the violation of these treaties she claimed indemnity from the government of the United States. Without admitting the justice of these pretensions, the government of the United States found them extremely embarrassing, and they authorized our ministers in France to buy them off by money.

"For the purpose of showing the justice of the present bill, it is not necessary to insist that France was right in these pretensions. Right or wrong, the United States were anxious to get rid of the embarrassments which they occasioned. They were willing to compromise the matter. The existing state of things, then, was exactly this:

"France admitted that citizens of the United States had just claims against her; but she insisted that she, on the other hand, had just claims against the government of the United States.

"She would not satisfy our citizens, till our government agreed to satisfy her. Finally, a treaty is ratified, by which the claims on both sides are renounced.

"The only question is, whether the relinquishment of these individual claims was the price which the United States paid for the relinquishment, by France, of her claims against our government? And who can doubt it? Look to the negotiation; the claims on both sides were discussed together. Look to the second article of the treaty, as originally agreed to; the claims on both sides are there reserved together. And look to the Senate's amendment, and to the subsequent declaration of the French government, acquiesced in by the Senate; and there the claims on both sides are renounced together. What stronger proof could there be of mutuality of consideration? Sir, allow me to put this direct question to the honorable member from New-York. If the United States did not agree to renounce these claims, in consideration that France would renounce hers, what was the reason why they surrendered thus the claims of their own citizens? Did they do it without any consideration at all? Was the surrender wholly gratuitous? Did they thus solemnly renounce claims for indemnity, so just, so long insisted on by themselves, the object of two special missions, the subjects of so much previous controversy, and at one time so near being the cause of open war—did the government surrender and renounce them gratuitously, or for nothing? Had it no reasonable motive in the relinquishment? Sir, it is impossible to maintain any such ground.

"And, on the other hand, let me ask, was it for nothing that France relinquished, what she had so long insisted on, the obligation of the United States to fulfil the treaties of 1778? For the extinguishment of this obligation we had already offered her a large sum of money, which she had declined. Was she now willing to give it up without any equivalent?

"Sir, the whole history of the negotiation is full of proof that the individual claims of our citizens, and the government claims of France against the United States, constituted the respective demands of the two parties. They were brought forward together, discussed together, insisted on together. The French ministers would never consent to disconnect them. While they admitted, in the fullest manner, the claims on our side, they maintained, with persesevering resolution, the claims on the side of France. It would fatigue the Senate were I to go through the whole correspondence, and show, as I could easily do, that, in every stage of the negotiation, these two subjects were kept together. I will only refer to some of the more prominent and decisive parts.

"In the first place, the general instructions which our ministers received from our own government, when they undertook the mission, directed them to insist on the claims of American citizens against France, to propose a joint board of commissioners to state those claims, and to agree to refer the claims of France for infringements of the treaty of commerce to the same board. I will read, sir, so much of the instructions as comprehend these points:

"'1. At the opening of the negotiation you will inform the French ministers that the United States expect from France, as an indispensable condition of the treaty, a stipulation to make to the citizens of the United States full compensation for all losses and damages which they shall have sustained by reason of irregular or illegal captures or condemnations of their vessels and other property, under color of authority or commissions from the French Republic or its agents. And all captures and condemnations are deemed irregular or illegal when contrary to the law of nations, generally received and acknowledged in Europe, and to the stipulations in the treaty of amity and commerce of the 6th of February, 1778, fairly and ingenuously interpreted, while that treaty remained in force.'

"'2. If these preliminaries should be satisfactorily arranged, then, for the purpose of examining and adjusting all the claims of our citizens, it will be necessary to provide for the ap-

pointment of a board of commissioners, similar to that described in the sixth and seventh articles of the treaty of amity and commerce between the United States and Great Britain.'

"'As the French government have heretofore complained of infringements of the treaty of amity and commerce, by the United States or their citizens, all claims for injuries, thereby occasioned to France or its citizens, are to be submitted to the same board; and whatever damages they award will be allowed by the United States, and deducted from the sums awarded to be paid by France.'

"Now, sir, suppose this board had been constituted, and suppose that it had made awards against France, in behalf of citizens of the United States, and had made awards also in favor of the government of France against the government of the United States; and then these last awards had been deducted from the amount of the former, and the property of citizens thus applied to discharge the public obligations of the country, would any body doubt that such citizens would be entitled to indemnity? And are they less entitled, because, instead of being first liquidated and ascertained, and then set off, one against the other, they are finally agreed to be set off against each other, and mutually relinquished in the lump?

"Acting upon their instructions, it will be seen that the American ministers made an actual offer to suspend the claim for indemnities till France should be satisfied as to her political rights under the treaties. On the 15th of July they made this proposition to the French negotiators:

"'Indemnities to be ascertained and secured in the manner proposed in our project of a treaty, but not to be paid until the United States shall have offered to France an article stipulating free admission, in the ports of each, for the privateers and prizes of the other, to the exclusion of their enemies.'

"This, it will be at once seen, was a direct offer to suspend the claims of our own citizens till our government should be willing to renew to France the obligation of the treaty of 1778. Was not this an offer to make use of private property for public purposes?

"On the 11th of August, the French plenipotentiaries thus write to the ministers of the United States:

"'The propositions which the French ministers have the honor to communicate to the ministers plenipotentiary of the United States are reduced to this simple alternative:

"'Either the ancient treaties, with the privileges resulting from priority, and a stipulation of reciprocal indemnities;

"'Or a new treaty, assuring equality without indemnity.'

"In other words, this offer is, 'if you will acknowledge or renew the obligation of the old treaties, which secure to us privileges in your ports which our enemies are not to enjoy, then we will make indemnities for the losses of your citizens; or, if you will give up all claim for such indemnities, then we will relinquish our especial privileges under the former treaties, and agree to a new treaty which shall only put us on a footing of equality with Great Britain, our enemy.'

"On the 20th of August our ministers propose that the former treaties, so far as they respect the rights of privateers, shall be renewed; but that it shall be optional with the United States, by the payment, within seven years, of three millions of francs, either in money or in securities issued by the French government for indemnities to our citizens, to buy off this obligation, or to buy off all its political obligations, under both the old treaties, by payment in like manner of five millions of francs.

"On the 4th of September the French ministers submit these propositions.

"'A commission shall regulate the indemnities which either of the two nations may owe to the citizens of the other.

"'The indemnities which shall be due by France to the citizens of the United States shall be paid for by the United States, and in return for which France yields the exclusive privilege resulting from the 17th and 22d articles of the treaty of commerce, and from the rights of guaranty of the 11th article of the treaty of alliance.'

"The American ministers considered these propositions as inadmissible. They, however, on their part, made an approach to them, by proposing, in substance, that it should be left optional with the United States, on the exchange of the ratification, to relinquish the indemnities, and in that case, the old treaties not to be obligatory on the United States, so far as they conferred exclusive privileges on France. This will be seen in the letter of the American ministers of the 5th of September.

"On the 18th of September the American ministers say to those of France;

"'It remains only to consider the expediency of a temporary arrangement. Should such an arrangement comport with the views of France, the following principles are offered as the basis of it:

"'1st. The ministers plenipotentiary of the respective parties not being able at present to agree respecting the former treaties and indemnities, the parties will, in due and convenient time, further treat on those subjects; and, until they shall have agreed respecting the same, the said treaties shall have no operation.'

"This, the Senate will see, is substantially the proposition which was ultimately accepted, and which formed the second article of the treaty. By that article, these claims, on both sides, were postponed for the present, and afterwards, by other acts of the two governments, they were mutually and for ever renounced and relinquished.

"And now, sir, if any gentleman can look to

the treaty, look to the instructions under which it was concluded, look to the correspondence which preceded it, and look to the subsequent agreement of the two governments to renounce claims, on both sides, and not admit that the property of these private citizens has been taken to buy off embarrassing claims of France on the government of the United States, I know not what other or further evidence could ever force that conviction on his mind.

"I will conclude this part of the case by showing you how this matter was understood by the American administration which finally accepted the treaty, with this renouncement of indemnities. The treaty was negotiated in the administration of Mr. Adams. It was amended in the Senate, as already stated, and ratified on the third day of February, 1801, Mr. Adams being still in office. Being thus ratified, with the amendment, it was sent back to France, and on the thirty-first day of July, the first Consul ratified the treaty, as amended by striking out the second article, but accompanied the ratification with this declaration, 'provided that, by this retrenchment, the two states renounce their respective pretensions, which are the object of the said article.'

"With this declaration appended, the treaty came back to the United States. Mr. Jefferson had now become President, and Mr. Madison was Secretary of State. In consequence of the declaration of the French government, accompanying its ratification of the treaty and now attached to it, Mr. Jefferson again referred the treaty to the Senate, and on the 19th of December, 1801, the Senate resolved that they considered the treaty as duly ratified. Now, sir, in order to show what Mr. Jefferson and his administration thought of this treaty, and the effect of its ratification, in its then existing form, I beg leave to read an extract of an official letter from Mr. Madison to Mr. Pinckney, then our minister in Spain. Mr. Pinckney was at that time negotiating for the adjustment of our claims on Spain; and, among others, for captures committed within the territories of Spain, by French subjects. Spain objected to these claims, on the ground that the United States had claimed redress of such injuries from France. In writing to Mr. Pinckney (under date of February 6th, 1804), and commenting on this plea of Spain, Mr. Madison says:

"'The plea on which it seems the Spanish government now principally relies, is the erasure of the second article from our late convention with France, by which France was released from the indemnities due for spoliations committed under her immediate responsibility to the United States. This plea did not appear in the early objections of Spain to our claims. It was an afterthought, resulting from the insufficiency of every other plea, and is certainly as little valid as any other.'

"'The injuries for which indemnities are claimed from Spain, though committed by Frenchmen, took place under Spanish authority Spain, therefore, is answerable for them. To her we have looked, and continue to look for redress. If the injuries done to us by her resulted in any manner from injuries done to her by France, she may, if she pleases, resort to France as we resort to her. But whether her resort to France would be just or unjust is a question between her and France, not between either her and us, or us and France. We claim against her, not against France. In releasing France, therefore, we have not released her. The claims, again, from which France was released, were admitted by France, and the release was for a valuable consideration, in a correspondent release of the United States from certain claims on them. The claims we make on Spain were never admitted by France, nor made on France by the United States; they made, therefore, no part of the bargain with her, and could not be included in the release.'

"Certainly, sir, words could not have been used which should more clearly affirm that these individual claims, these private rights of property, had been applied to public uses. Mr. Madison here declares, unequivocally, that these claims had been admitted by France; that they were relinquished by the government of the United States; that they were relinquished for a valuable consideration; that that consideration was a correspondent release of the United States from certain claims on them; and that the whole transaction was a bargain between the two governments. This, sir, be it remembered, was little more than two years after the final promulgation of the treaty; it was by the Secretary of State under that administration which gave effect to the treaty in its amended form, and it proves, beyond mistake and beyond doubt, the clear judgment which that administration had formed upon the true nature and character of the whole transaction.

CHAPTER CXX.

FRENCH SPOLIATIONS—MR. BENTON'S SPEECH.

"The whole stress of the question lies in a few simple facts, which, if disembarrassed from the confusion of terms and conditions, and viewed in their plain and true character, render it difficult not to arrive at a just and correct view of the case. The advocates of this measure have no other grounds to rest their case upon than an assumption of facts; they assume that the United States lay under binding and onerous stipulations to France; that the claims of this bill were recognized by France; and that the

United States made herself responsible for these claims, instead of France; took them upon herself, and became bound to pay them, in consideration of getting rid of the burdens which weighed upon her. It is assumed that the claims were good when the United States abandoned them; and that the consideration, which it is pretended the United States received, was of a nature to make her fully responsible to the claimants, and to render it obligatory upon her to satisfy the claims.

"The measure rests entirely upon these assumptions; but I shall show that they are nothing more than assumptions; that these claims were not recognized by France, and could not be, by the law of nations; they were good for nothing when they were made; they were good for nothing when we abandoned them. The United States owed nothing to France, and received no consideration whatever from her, to make us responsible for payment. What I here maintain, I shall proceed to prove, not by any artful chain of argument, but by plain and historical facts.

"Let me ask, sir, on what grounds is it maintained that the United States received a valuable consideration for these claims? Under what onerous stipulations did she lie? In what did her debt consist, which it is alleged France gave up in payment for these claims? By the treaty of '78, the United States was bound to guarantee the French American possessions to France; and France, on her part, guaranteed to the United States her sovereignty and territory. In '93, the war between Great Britain and France broke out; and this rupture between those nations immediately gave rise to the question how far this guaranty was obligatory upon the United States? Whether we were bound by it to protect France on the side of her American possessions against any hostile attack of Great Britain; and thus become involved as subalterns in a war in which we had no concern or interest whatever? Here we come to the point at once: for if it should appear that we were not bound by this guaranty to become parties to a distant European war, then, sir, it will be an evident, a decided result and conclusion, that we were under no obligation to France—that we owed her no debt on account of this guaranty; and, plainly enough, it will follow, we received no valuable consideration for the claims of this bill, when France released us from an obligation which it will appear we never owed. Let us briefly see how the case stands.

"France, to get rid of claims made by us, puts forward counter claims under this guaranty; proposing by such a diplomatic manœuvre to get rid of our demand, the injustice of which she protested against. She succeeded, and both parties abandoned their claims. And is it now to be urged upon us that, on the grounds of this astute diplomacy, we actually received a valuable consideration for claims which were considered good for nothing? France met our claims, which were good for nothing, by a counter claim, which was good for nothing; and when we found ourselves thus encountered, we abandoned our previous claim, in order to be released from the counter one opposed to it. After this, is it, I would ask, a suitable return for our overwrought anxiety to obtain satisfaction for our citizens, that any one of them should, some thirty years after this, turn round upon us and say: "now you have received a valuable consideration for our claims; now, then, you are bound to pay us!" But this is in fact, sir, the language of this bill. I unhesitatingly say that the guaranty (a release from which is the pretended consideration by which the whole people of the United States are brought in debtors to a few insurance offices to the amount of millions), this guaranty, sir, I affirm, was good for nothing. I speak on no less authority, and in no less a name than that of the great father of his country, Washington himself, when I affirm that this guaranty imposed upon us no obligations towards France. How, then, shall we be persuaded that, in virtue of this guaranty, we are bound to pay the debts and make good the spoliations of France?

"When the war broke out between Great Britain and France in 1793, Washington addressed to his cabinet a series of questions, inquiring their opinions on this very question—how far the treaty of guaranty of 1778 was obligatory upon the United States—intending to take their opinions as a guidance for his conduct in such a difficult situation. [Here the honorable Senator read extracts from Washington's queries to his cabinet, with some of the opinions themselves.]

"In consequence of the opinions of his cabinet concurring with his own sentiments, President Washington issued a proclamation of neutrality,

disregarding the guaranty, and proclaiming that we were not bound by any preceding treaties to defend American France against Great Britain. The wisdom of this measure is apparent. He wisely thought it was not prudent our infant Republic should become absorbed in the vortex of European politics; and therefore, sir, not without long and mature deliberation how far this treaty of guaranty was obligatory upon us, he pronounced against it; and in so doing he pronounced against the very bill before us; for the bill has nothing to stand upon but this guaranty; it pretends that the United States is bound to pay for injuries inflicted by France, because of a release from a guaranty by which the great Washington himself solemnly pronounced we were not bound! What do we now behold, sir? We behold an array in this House, and on this floor, against the policy of Washington! They seek to undo his deed; they condemn his principles; they call in question the wisdom and justice of his wise and paternal counsels; they urge against him that the guaranty bound us, and what for? What is the motive of this opposition against his measures? Why, sir, that this bill may pass; and the people, the burden-bearing people, be made to pay away a few millions, in consideration of obligations which, after mature deliberation, Washington pronounced not to lie upon us!

"I think, sir, enough has been said to put to rest for ever the question of our obligations under this guaranty. Whatever the claims may be, it must be evident to the common sense of every individual, that we are not, and cannot be, bound to pay them in the stead of France, because of a pretended release from a guaranty which did not bind us; I say did not bind us, because, to have observed it, would have led to our ruin and destruction; and it is a clear principle of the law of nations, that a treaty is not obligatory when it is impossible to observe it. But, sir, leaving the question whether we were made responsible for the debts of France, whether we were placed under an obligation to atone to our own citizens for injuries which a foreign power had committed; leaving this question as settled (and I trust settled for ever), I come to consider the claims themselves, their justice, and their validity. And here the principle of this bill will prove, on this head, as weak and untenable—nay, more—as outrageous to every idea of common sense, as it was on the former head. With what reason, I would ask, can gentlemen press the American people to pay these claims, when it would be unreasonable to press France herself to pay them? If France, who committed the wrong, could not justly be called upon to atone for it, how can the United States now be called upon for this money? In 1798, the treaty of peace with France was virtually abolished by various acts of Congress authorizing hostilities, and by proclamation of the President to the same effect; it was abolished on account of its violation by France; on account of those depredations which this bill calls upon us to make good. By those acts of Congress we sought satisfaction for these claims; and, having done so, it was too late afterwards to seek fresh satisfaction by demanding indemnity. There was war, sir, as the gentleman from Georgia has clearly shown—war on account of these spoliations—and when we sought redress, by acts of warfare, we precluded ourselves from the right of demanding redress by indemnity. We could not, therefore, justly urge these claims against France; and I therefore demand, how can they be urged against us? What are the invincible arguments by which gentlemen establish the justice and validity of these claims? For, surely, before we consent to sweep away millions from the public treasury, we ought to hear at least some good reasons. Let me examine their good reasons. The argument to prove the validity of these claims, and that we are bound to pay them, is this: France acknowledged them, and the United States took them upon herself; that is, they were paid by way of offset, and the valuable consideration the United States received was a release from her pretended obligations! Now, sir, let us see how France acknowledged them. These very claims were denied, resisted, and rejected, by every successive government of France! The law of nations was urged against them; because, having engaged in a state of war, on the account of them, we had no right to a double redress—first by reprisals, and afterwards by indemnity! Besides, France justified her spoliations, on the ground that we violated our neutrality; that the ships seized were laden with goods belonging to the English, the enemies of France; and it is well known, that, in ninety-nine cases out of a hun-

dred, this was the fact—that American citizens lent their names to the English, and were ready to risk all the dangers of French spoliation, for sake of the great profits, which more than covered the risk. And, in the face of all these facts, we are told that the French acknowledged the claims, paid them by a release, and we are now bound to satisfy them! And how is this proved? Where are the invincible arguments by which the public treasury is to be emptied? Hear them, if it is possible even to hear them with patience! When we urged these claims, the French negotiators set up a counter claim; and, to obtain a release from this, we abandoned them! Thus it is that the French acknowledged these claims; and, on this pretence, because of this diplomatic cunning and ingenuity, we are now told that the national honor calls on us to pay them! Was ever such a thing heard of before? Why, sir, if we pass this bill, we shall deserve eternal obloquy and disgrace from the whole American people. France, after repeatedly and perseveringly denying and resisting these claims, at last gets rid of them for ever by an ingenious trick, and by pretending to acknowledge them; and now her debt (if it was a debt) is thrown upon us; and, in consequence of this little trick, the public treasury is to be tricked out of several millions! Sir, this is monstrous! I say it is outrageous! I intend no personal disrespect to any gentleman by these observations; but I must do my duty to my country, and I repeat it, sir, this is outrageous!

"It is strenuously insisted upon, and appears to be firmly relied upon by gentlemen who have advocated this measure, that the United States has actually received from France full consideration for these claims; in a word, that France has paid them! I have already shown, by historical facts, by the law of nations, and, further, by the authority and actions of Washington himself, the father of his country, that we were placed under no obligations to France by the treaty of guaranty; and that, therefore, a release from obligations which did not exist, is no valuable consideration at all! But, sir, how can it be urged upon us that France actually paid us for claims which were denied and resisted, when we all know very well that, for undisputed claims, for claims acknowledged by treaty, for claims solemnly engaged to be paid, we could never succeed in getting one farthing I thank the senator from New Hampshire (Mr. Hill), for the enlightened view he has given on this case. What, sir, was the conduct of Napoleon, with respect to money? He had bound himself to pay us twenty millions of francs, and he would not pay one farthing! And yet, sir, we are confidently assured by the advocates of this bill that these claims were paid to us by Napoleon! When Louisiana was sold, he ordered Marbois to get fifty millions, and did not even then, intend to pay us out of that sum the twenty millions he had bound himself by treaty to pay. Marbois succeeded in getting thirty millions of francs more from us, and from this the twenty millions due was deducted; thus, sir, we were made to pay ourselves our own due, and Napoleon escaped the payment of a farthing. I mean to make no reflection upon our negotiators at that treaty; we may be glad that we got Louisiana at any amount; for, if we had not obtained it by money, we should soon have possessed it by blood: the young West, like a lion, would have sprung upon the delta of the Mississippi, and we should have had an earlier edition of the battle of New Orleans. It is not to be regretted, therefore, that we gained Louisiana by negotiation, although we paid our debts ourselves in that bargain. But Napoleon absolutely scolded Marbois for allowing the deduction of twenty millions out of the sum we paid for Louisiana, forgetting that his minister had got thirty millions more than he ordered him to ask, and that we had paid ourselves the twenty millions due to us under treaty. Having such a man to deal with, how can it be maintained on this floor that the United States has been paid by him the claims in this bill, and that, therefore, the treasury is bound to satisfy them? Let senators, I entreat them, but ask themselves the question, what these claims were worth in the view of Napoleon, that they may not form such an unwarranted conclusion as to think he ever paid them. Every government of France which preceded him had treated them as English claims, and is it likely that he who refused to pay claims subsequent to these, under treaty signed by himself, would pay old claims anterior to 1800? The claims were not worth a straw; they were considered as lawful spoliations; that by our proclamation we had broken the neutrality;

and, after all, that they were incurred by English enterprises, covered by the American flag. It is pretended he acknowledged them! Would he have inserted two lines in the treaty to rescind them, to get rid of such claims, when he would not pay those he had acknowledged?

To recur once more, sir, to the valuable consideration which it is pretended we received for these claims. It is maintained that we were paid by receiving a release from onerous obligations imposed upon us by the treaty of guaranty, which obligations I have already shown that the great Washington himself pronounced to be nothing; and, therefore, sir, it plainly follows that this valuable consideration was—nothing!

What, sir! Is it said we were released from obligations? From what obligations, I would ask, were we relieved? From the obligation of guaranteeing to France her American possessions; from the obligation of conquering St. Domingo for France! From an impossibility, sir! for do we not know that this was impossible to the fleets and armies of France, under Le Clerc, the brother-in-law of Napoleon himself? Did they not perish miserably by the knives of infuriated negroes and the desolating ravages of pestilence? Again, we were released from the obligation of restoring Guadaloupe to the French; which also was not possible, unless we had entered into a war with Great Britain! And thus, sir, the valuable consideration, the release by which these claims are said to be fully paid to the United States, turns out to be a release from nothing! a release from absolute impossibilities; for it was not possible to guarantee to France her colonies; she lost them, and there was nothing to guarantee; it was a one-sided guaranty! She surrendered them by treaty, and there is nothing for the guaranty to operate on.

The gentleman from Georgia [Mr. King], has given a vivid and able picture of the exertions of the United States government in behalf of these claims. He has shown that they have been paid, and more than paid, on our part, by the invaluable blood of our citizens! Such, indeed, is the fact. What has not been done by the United States on behalf of these claims? For these very claims, for the protection of those very claimants, we underwent an incredible expense both in military and nava armaments.

[Here the honorable senator read a long lis of military and naval preparations made by Congress for the protection of these claims, specifying the dates and the numbers.]

Nor did the United States confine herself solely to these strenous exertions and expensive armaments; besides raising fleets and armies, she sent across the Atlantic embassies and agents; she gave letters of marque, by which every injured individual might take his own remedy and repay himself his losses. For these very claims the people were laden at that period with heavy taxes, besides the blood of our people which was spilt for them. Loans were raised at eight per cent. to obtain redress for these claims; and what was the consequence? It overturned the men in power at that period; this it was which produced that result, more than political differences.

The people were taxed and suffered for these same claims in that day; and now they are brought forward again to exhaust the public treasury and to sweep away more millions yet from the people, to impose taxes again upon them, for the very same claims for which the people have already once been taxed; reviving the system of '98, to render loans and debts and encumbrances again to be required; to embarrass the government, entangle the State, to impoverish the people; to dig, in a word, by gradual measures of this description, a pit to plunge the nation headlong into inextricable difficulty and ruin!

The government, in those days, performed its duty to the citizens in the protection of their commerce; and by vindicating, asserting, and satisfying these claims, it left nothing undone which now is to be done; the pretensions of this bill are therefore utterly unfounded! Duties are reciprocal; the duty of government is protection, and that of citizens allegiance. This bill attempts to throw upon the present government the duties and expenses of a former government, which have been already once acquitted. On its part, government has fulfilled, with energy and zeal, its duty to the citizens; it has protected and now is protecting their rights, and asserting their just claims. Witness our navy, kept up in time of peace, for the protection of commerce and for the profit of our

citizens; witness our cruisers on every point of the globe, for the security of citizens pursuing every kind of lawful business. But, there are limits to the protection of the interests of individual citizens; peace must, at one time or other, be obtained, and sacrifices are to be made for a valuable consideration. Now, sir, peace is a valuable consideration, and claims are often necessarily abandoned to obtain it. In 1814, we gave up claims for the sake of peace; we gave up claims for Spanish spoliations, at the treaty of Florida; we gave up claims to Denmark. These claims also were given up, long anterior to others I have mentioned. When peace is made, the claims take their chance; some are given up for a gross sum, and some, such as these, when they are worth nothing, will fetch nothing. How monstrous, therefore, that measure is, which would transfer abandoned and disputed claims from the country, by which they were said to be due, to our own country, to our own government, upon our own citizens, requiring us to pay what others owed (nay, what it is doubtful if they did owe); requiring us to pay what we have never received one farthing for, and for which, if we had received millions, we have paid away more than those millions in arduous exertions on their behalf!

I should not discharge the duty I owe to my country, if I did not probe still deeper into these transactions. What were the losses which led to these claims? Gentlemen have indulged themselves in all the flights and raptures of poetry on this pathetic topic; we have heard of "ships swept from the ocean, families plunged in want and ruin;" and such like! What is the fact, sir? It is as the gentleman from New Hampshire has said: never, sir, was there known, before or since, such a flourishing state of commerce as the very time and period of these spoliations. At that time, men made fortunes if they saved one ship only, out of every four or five, from the French cruisers! Let us examine the stubborn facts of sober arithmetic, in this case, and not sit still and see the people's money charmed out of the treasury by the persuasive notes of poetry. [Mr. B here referred to public documents showing that, in the years 1793, '94, '95, '96, '97, '98, '99, up to 1800, the exports, annually increased at a rapid rate, till, in 1800 they amounted to more than $91,000,000].

It must be taken into consideration that, at this period, our population was less than it is now, our territory was much more limited, we had not Louisiana and the port of New Orleans, and yet our commerce was far more flourishing than it ever has been since; and at a time, too, when we had no mammoth banking corporation to boast of its indispensable, its vital necessity to commerce! These are the facts of numbers, of arithmetic, which blow away the edifice of the gentlemen's poetry, as the wind scatters straws.

With respect to the parties in whose hands these claims are. They are in the hands of insurance offices, assignees, and jobbers; they are in the hands of the knowing ones who have bought them up for two, three, five, ten cents in the dollar! What has become of the screaming babes that have been held up after the ancient Roman method, to excite pity and move our sympathies? What has become of the widows and original claimants? They have been bought out long ago by the knowing ones. If we countenance this bill, sir, we shall renew the disgraceful scenes of 1793, and witness a repetition of the infamous fraud and gambling, and all the old artifices which the certificate funding act gave rise to. (Mr. B. here read several interesting extracts, describing the scenes which then took place.)

One of the most revolting features of this bill is its relation to the insurers. The most infamous and odious act ever passed by Congress was the certificate funding act of 1793, an act passed in favor of a crowd of speculators; but the principle of this bill is more odious than even it; I mean that of paying insurers for their losses. The United States, sir, insure! Can any thing be conceived more revolting and atrocious than to direct the funds of the treasury, the property of the people, to such iniquitous uses? On what principle is this grounded? Their occupation is a safe one; they make calculations against all probabilities; they make fortunes at all times; and especially at this very time when we are called upon to refund their losses, they made immense fortunes. It would be far more just and equitable if Congress were to insure the farmers and planters, and pay them their losses on the failure of the cotton crop; they, sir, are more entitled to put forth such claims than speculators and gamblers, whose

trade and business it is to make money by losses. This bill, if passed, would be the most odious and unprincipled ever passed by Congress.

Another question, sir, occurs to me: what sum of money will this bill abstract from the treasury? It says five millions, it is true; but it does not say "and no more;" it does not say that they will be in full. If the project of passing this bill should succeed, not only will claims be made, but next will come interest upon them! Reflect, sir, one moment: interest from 1798 and 1800 to this day! Nor is there any limitation of the amount of claims; no, sir, it would not be possible for the imagination of man, to invent more cunning words than the wording of this bill. It is made to cover all sorts of claims; there is no kind of specification adequate to exclude them; the most illegal claims will be admitted by its loose phraseology!

Again suffer me to call your attention to another feature of this atrocious measure; let me warn my country of the abyss which it is attemped to open before it, by this and other similar measures of draining and exhausting the public treasury!

These claims rejected and spurned by France; these claims for which we have never received one cent, all the payment ever made for them urged upon us by their advocates being a metaphysical and imaginary payment; these claims which, under such deceptive circumstances as these, we, sir, are called upon to pay, and to pay to insurers, usurers, gamblers, and speculators; these monstrous claims which are foisted upon the American people, let me ask, how are they to be adjudged by this bill? Is it credible, sir? They are to be tried by an *ex parte* tribunal! Commissioners are to be appointed, and then, once seated in this berth, they are to give away and dispose of the public money according to the cases proved! No doubt sir, they will be all honorable men. I do not dispute that! No doubt it will be utterly impossible to prove corruption, or bribery, or interested motives, or partialities against them; nay, sir, no doubt it will be dangerous to suspect such honorable men; we shall be replied to at once by the indignant question, "are they not all honorable men?" But to all intents and purposes this tribunal will be an *ex parte*, a one-sided tribunal and passive to the action of the claimants.

Again, look at the species of evidence which will be invited to appear before these commissioners; of what description will it be? Here is not a thing recent and fresh upon which evidence, may be gained. Here are transactions of thirty or forty years ago. The evidence is gone, witnesses dead, memories failing, no testimony to be procured, and no lack of claimants, notwithstanding. Then, sir, the next best evidence, that suspicious and worthless sort of evidence, will have to be restored to; and this will be ready at hand to suit every convenience in any quantity. There could not be a more effective and deeper plan than this devised to empty the treasury! Here will be sixty millions exhibited as a lure for false evidence, and false claims; an awful, a tremendous temptation for men to send their souls to hell for the sake of money. On the behalf of the moral interests of my country, while it may yet not be too late, I denounce this bill, and warn Congress not to lend itself to a measure by which it will debauch the public morals, and open a wide gulf of wrong-doing and not-to-be-imagined evil!

The bill proposes the amount of only five millions, while, by the looseness of its wording, it will admit old claims of all sorts and different natures; claims long since abandoned for gross sums; all will come in by this bill! One hundred millions of dollars will not pay all that will be patched up under the cover of this bill! In bills of this description we may see a covert attempt to renew the public debt, to make loans and taxes necessary, and the engine of loans necessary with them! There are those who would gladly overwhelm the country in debt; that corporations might be maintained which thrive by debt, and make their profits out of the misery and encumbrances of the people. Shall the people be denied the least repose from taxation? Shall all the labor and exertions of government to extinguish the public debt be in vain? Shall its great exertions to establish economy in the State, and do away with a system of loans and extravagance, be thwarted and resisted by bills of this insidious aim and character? Shall the people be prevented from feeling in reality that we have no debt: shall they only know it by dinners and public rejoicings? Shall such a happy and beneficial result of wise and wholesome measures be rendered all in vain by envious efforts to destroy the whole,

and render it impossible for the country to go on without borrowing and being in debt?"

The bill passed the Senate by a vote of 25 to 20; but failed in the House of Representatives. It still continues to importune the two Houses; and though baffled for fifty years, is as pertinacious as ever. Surely there ought to be some limit to these presentations of the same claim. It is a game in which the government has no chance. No number of rejections decides any thing in favor of the government; a single decision in their favor decides all against them. Renewed applications become incessant, and endless; and eventually must succeed. Claims become stronger upon age—gain double strength upon time—often directly, by newly discovered evidence—always indirectly, by the loss of adversary evidence, and by the death of contemporaries. Two remedies are in the hands of Congress—one, to break up claim agencies, by allowing no claim to be paid to an agent; the other, to break up speculating assignments, by allowing no more to be received by an assignee than he has actually paid for the claim. Assignees and agents are now the great prosecutors of claims against the government. They constitute a profession—a new one—resident at Washington city. Their calling has become a new industrial pursuit—and a most industrious one—skilful and persevering, acting on system and in phalanx; and entirely an overmatch for the succession of new members who come ignorantly to the consideration of the cases which they have so well dressed up. It would be to the honor of Congress, and the protection of the treasury, to institute a searching examination into the practices of these agents, to see whether any undue means are used to procure the legislation they desire.

CHAPTER CXXI.

ATTEMPTED ASSASSINATION OF PRESIDENT JACKSON.

On Friday, the 30th of January, the President with some members of his Cabinet, attended the funeral ceremonies of Warren R. Davis, Esq., in the hall of the House of Representatives—of which body Mr. Davis had been a member from the State of South Carolina. The procession had moved out with the body, and its front had reached the foot of the broad steps of the eastern portico, when the President, with Mr. Woodbury, Secretary of the Treasury, and Mr. Mahlon Dickerson, Secretary of the Navy, were issuing from the door of the great rotunda—which opens upon the portico. At that instant a person stepped from the crowd into the little open space in front of the President, levelled a pistol at him, at the distance of about eight feet, and attempted to fire. It was a percussion lock, and the cap exploded, without firing the powder in the barrel. The explosion of the cap was so loud that many persons thought the pistol had fired: I heard it at the foot of the steps, far from the place, and a great crowd between. Instantly the person dropped the pistol which had missed fire, took another which he held ready cocked in the left hand, concealed by a cloak—levelled it—and pulled the trigger. It was also a percussion lock, and the cap exploded without firing the powder in the barrel. The President instantly rushed upon him with his uplifted cane: the man shrunk back; Mr. Woodbury aimed a blow at him; Lieutenant Gedney of the Navy knocked him down; he was secured by the bystanders, who delivered him to the officers of justice for judicial examination. The examination took place before the chief justice of the district, Mr. Cranch; by whom he was committed in default of bail. His name was ascertained to be Richard Lawrence, an Englishman by birth, and house-painter by trade, at present out of employment, melancholy and irascible. The pistols were examined, and found to be well loaded; and fired afterwards without fail, carrying their bullets true, and driving them through inch boards at thirty feet distance; nor could any reason be found for the two failures at the door of the rotunda. On his examination the prisoner seemed to be at his ease, as if unconscious of having done any thing wrong—refusing to cross-examine the witnesses who testified against him, or to give any explanation of his conduct. The idea of an unsound mind strongly impressing itself upon the public opinion, the marshal of the district invited two of the most respectable physicians of the city (Dr. Caussin and Dr. Thomas Sewell), to visit him and examine into his mental con-

dition. They did so: and the following is the report which they made upon the case:

"The undersigned, having been requested by the marshal of the District of Columbia to visit Richard Lawrence, now confined in the jail of the county of Washington, for an attempt to assassinate the President of the United States, with a view to ascertain, as far as practicable, the present condition of his bodily health and state of mind, and believing that a detail of the examination will be more satisfactory than an abstract opinion on the subject, we therefore give the following statement. On entering his room, we engaged in a free conversation with him, in which he participated, apparently, in the most artless and unreserved manner. The first interrogatory propounded was, as to his age—which question alone he sportively declined answering. We then inquired into the condition of his health, for several years past—to which he replied that it had been uniformly good, and that he had never labored under any mental derangement; nor did he admit the existence of any of those symptoms of physical derangement which usually attend mental alienation. He said he was born in England, and came to this country when twelve or thirteen years of age, and that his father died in this District, about six or eight years since; that his father was a Protestant and his mother a Methodist, and that he was not a professor of any religion, but sometimes read the Bible, and occasionally attended church. He stated that he was a painter by trade, and had followed that occupation to the present time; but, of late, could not find steady employment—which had caused much pecuniary embarrassment with him; that he had been generally temperate in his habits, using ardent spirits moderately when at work; but, for the last three or four weeks, had not taken any; that he had never gambled, and, in other respects, had led a regular, sober life.

"Upon being interrogated as to the circumstances connected with the attempted assassination, he said that he had been deliberating on it for some time past, and that he had called at the President's house about a week previous to the attempt, and being conducted to the President's apartment by the porter, found him in conversation with a member of Congress, whom he believed to have been Mr. Sutherland, of Pennsylvania; that he stated to the President that he wanted money to take him to England, and that he must give him a check on the bank, and the President remarked, that he was too much engaged to attend to him—he must call another time, for Mr. Dibble was in waiting for an interview. When asked about the pistols which he had used, he stated that his father left him a pair, but not being alike, about four years since he exchanged one for another, which exactly matched the best of the pair; these were both flint locks, which he recently had altered to percussion locks, by a Mr. Boteler; that he had been frequently in the habit of loading and firing those pistols at marks, and that he had never known them to fail going off on any other occasion, and that, at the distance of ten yards, the ball always passed through an inch plank. He also stated that he had loaded those pistols three or four days previous, with ordinary care, for the purpose attempted; but that he used a pencil instead of a ramrod, and that during that period, they were at all times carried in his pocket; and when asked why they failed to explode, he replied he knew no cause. When asked why he went to the capitol on that day, he replied that he expected that the President would be there. He also stated, that he was in the rotunda when the President arrived; and on being asked why he did not then attempt to shoot him, he replied that he did not wish to interfere with the funeral ceremony, and therefore waited till it was over. He also observed that he did not enter the hall, but looked through a window from a lobby, and saw the President seated with members of Congress, and he then returned to the rotunda, and waited till the President again entered it, and then passed through and took his position in the east portico, about two yards from the door, drew his pistols from his inside coat pocket, cocked them and held one in each hand, concealed by his coat, lest he should alarm the spectators—and states, that as soon as the one in the right hand missed fire, he immediately dropped or exchanged it, and attempted to fire the second, before he was seized; he further stated that he aimed each pistol at the President's heart, and intended, if the first pistol had gone off, and the president had fallen, to have defended himself with the second, if defence had been necessary. On being asked if he did not expect to have been killed on the spot, if he had killed the President, he replied he did not; and that he had no doubt but that he would have been protected by the spectators. He was frequently questioned whether he had any friends present, from whom he expected protection. To this he replied, that he never had mentioned his intention to any one, and that no one in particular knew his design; but that he presumed it was generally known that he intended to put the President out of the way. He further stated, that when the President arrived at the door, near which he stood, finding him supported on the left by Mr. Woodbury, and observing many persons in his rear, and being himself rather to the right of the President, in order to avoid wounding Mr. Woodbury, and those in the rear, he stepped a little to his own right, so that should the ball pass through the body of the President, it would be received by the door-frame, or stone wall. On being asked if he felt no trepidation during the attempt: He replied, not the slightest, until he found that the second pistol had missed fire. Then observing that the President was advancing upon him, with an uplifted cane, he feared that it contained a sword,

which might have been thrust through him before he could have been protected by the crowd. And when interrogated as to the motive which induced him to attempt the assassination of the President, he replied, that he had been told that the President had caused his loss of occupation, and the consequent want of money, and he believed that to put him out of the way, was the only remedy for this evil; but to the interrogatory, who told you this? he could not identify any one, but remarked that his brother-in-law, Mr. Redfern, told him that he would have no more business, because he was opposed to the President—and he believed Redfern to be in league with the President against him. Again being questioned, whether he had often attended the debates in Congress, during the present session, and whether they had influenced him in making this attack on the person of the President, he replied that he had frequently attended the discussions in both branches of Congress, but that they had, in no degree, influenced his action.

"Upon being asked if he expected to become the president of the United States, if Gen. Jackson had fallen, he replied no.

"When asked whom he wished to be the President, his answer was, there were many persons in the House of Representatives. On being asked if there were no persons in the Senate, yes, several; and it was the Senate to which I alluded. Who, in your opinion, of the Senate, would make a good President? He answered, Mr. Clay, Mr. Webster, Mr. Calhoun. What do you think of Col. Benton, Mr. Van Buren, or Judge White, for President? He thought they would do well. On being asked if he knew any member of either house of Congress, he replied that he did not—and never spoke to one in his life, or they to him. On being asked what benefit he expected himself from the death of the President, he answered he could not rise unless the President fell, and that he expected thereby to recover his liberty, and that the mechanics would all be benefited; that the mechanics would have plenty of work; and that money would be more plenty. On being asked why it would be more plenty, he replied, it would be more easily obtained from the bank. On being asked what bank, he replied, the Bank of the United States. On being asked if he knew the president, directors, or any of the officers of the bank, or had ever held any intercourse with them, or knew how he could get money out of the bank, he replied no—that he slightly knew Mr. Smith only.

"On being asked with respect to the speeches which he had heard in Congress, and whether he was particularly pleased with those of Messrs. Calhoun, Clay, and Webster, he replied that he was, because they were on his side. He was then asked if he was well pleased with the speeches of Col. Benton and Judge White? He said he was and thought Col. Benton highly talented.

"When asked if he was friendly to Gen. Jackson, he replied, no. Why not? He answered, because he was a tyrant. Who told you he was a tyrant? He answered, it was a common talk with the people, and that he had read it in all the papers. He was asked if he could name any one who had told him so? He replied, no. He was asked if he ever threatened to shoot Mr. Clay, Mr. Webster, or Mr. Calhoun, or whether he would shoot them if he had an opportunity? He replied, no. When asked if he would shoot Mr. Van Buren? He replied, no, that he once met with Mr. Van Buren in the rotunda, and told him he was in want of money and must have it, and if he did not get it he (Mr. Van Buren), or Gen. Jackson must fall. He was asked if any person were present during the conversation? He replied, that there were several present, and when asked if he recollected one of them, he replied that he did not. When asked if any one advised him to shoot Gen. Jackson, or say that it ought to be done? He replied, I do not like to say. On being pressed on this point, he said no one in particular had advised him.

"He further stated, that believing the President to be the source of all his difficulties, he was still fixed in his purpose to kill him, and if his succcessor pursued the same course, to put him out of the way also—and declared that no power in this country could punish him for having done so, because it would be resisted by the powers of Europe, as well as of this country. He also stated, that he had been long in correspondence with the powers of Europe, and that his family had been wrongfully deprived of the crown of England, and that *he* should yet live to regain it—and that he considered the President of the United States nothing more than his clerk.

"We now think proper to add, that the young man appears perfectly tranquil and unconcerned, as to the final result, and seems to anticipate no punishment for what he has done. The above contains the leading, and literally expressed facts of the whole conversation we had with him, which continued at least two hours. The questions were frequently repeated at different stages of the examination; and presented in various forms."

It is clearly to be seen from this medical examination of the man, that this attempted assassination of the President, was one of those cases of which history presents many instances—a diseased mind acted upon by a general outcry against a public man. Lawrence was in the particular condition to be acted upon by what he heard against General Jackson:—a workman out of employment—needy—idle—mentally morbid; and with reason enough to argue regularly from false premises. He heard the

President accused of breaking up the labor of the country! and believed it—of making money scarce! and he believed it—of producing the distress! and believed it—of being a tyrant! and believed it—of being an obstacle to all relief! and believed it. And coming to a regular conclusion from all these beliefs, he attempted to do what he believed the state of things required him to do—take the life of the man whom he considered the sole cause of his own and the general calamity—and the sole obstacle to his own and the general happiness. Hallucination of mind was evident; and the wretched victim of a dreadful delusion was afterwards treated as insane, and never brought to trial. But the circumstance made a deep impression upon the public feeling, and irresistibly carried many minds to the belief in a superintending Providence, manifested in the extraordinary case of two pistols in succession—so well loaded, so coolly handled, and which afterwards fired with such readiness, force, and precision—missing fire, each in its turn, when levelled eight feet at the President's heart.

CHAPTER CXXII.

ALABAMA EXPUNGING RESOLUTIONS.

Mr. King, of Alabama, presented the preamble and joint resolution of the general assembly of his State, entreating their senators in Congress to use their "untiring efforts" to cause to be expunged from the journal of the Senate, the resolve condemnatory of President Jackson, for the removal of the deposits. Mr. Clay desired to know, before any order was taken on these resolutions, whether the senator presenting them, proposed to make any motion in relation to expunging the journal? This inquiry was made in a way to show that Mr. King was to meet resistance to his motion if he attempted it. The expunging process was extremely distasteful to the senators whose act was proposed to be stigmatized;—and they now began to be sensitive at its mention.—When Mr. Benton first gave notice of his intention to move it, his notice was looked upon as an idle menace, which would end in nothing. Now it was becoming a serious proceeding. The States were taking it up. Several of them, through their legislatures—Alabama, Mississippi, New Jersey, New-York, North Carolina—had already given the fatal instructions; and it was certain that more would follow. Those of Alabama were the first presented; and it was felt necessary to make head against them from the beginning. Hence, the interrogatory put by Mr. Clay to Mr. King—the inquiry whether he intended to move an expunging resolution?—and the subsequent motion to lay the resolutions of the State upon the table if he answered negatively. Now it was not the intention of Mr. King to move the expunging resolution. It was not his desire to take that business out of the hands of Mr. Benton, who had conceived it—made a speech for it—given notice of it at the last session as a measure for the present one—and had actually given notice at the present session of his intention to offer the resolution. Mr. King's answer would necessarily, therefore, be in the negative, and Mr. Clay's motion then became regular to lay it upon the table. Mr. Benton, therefore, felt himself called upon to answer Mr. Clay, and to recall to the recollection of the Senate what took place at the time the sentence of condemnation had passed; and rose and said:

"He had then (at the time of passing the condemnatory resolution), in his place, given immediate notice that he should commence a series of motions for the purpose of expunging the resolutions from the journals. He had then made use of the word expunge, in contradistinction to the word repeal, or the word reverse, because it was his opinion then, and that opinion had been confirmed by all his subsequent reflection, that repeal or reversal of the resolution would not do adequate justice. To do that would require a complete expurgation of the journal. It would require that process which is denominated expunging, by which, to the present, and to all future times, it would be indicated that that had been placed upon the journals which should never have gone there. He had given that notice, after serious reflection, that it might be seen that the Senate was trampling the constitution of the United States under foot; and not only that, but also the very forms, to say nothing of the substance, of all criminal justice.

"He had given this notice in obedience to the dictates of his bosom, which were afterwards sustained by the decision of his head, without consultation with any other person, but after conference only with himself and his God. To a single human being he had said that he

should do it, but he had not consulted with any one. In the ordinary routine of business, no one was more ready to consult with his friends, and to defer to their opinions, than he was; but there were some occasions on which he held council with no man, but took his own course, without regard to consequences. It would have been a matter of entire indifference with him, had the whole Senate risen as one man, and declared a determination to give a unanimous vote against him. It would have mattered nothing. He would not have deferred to any human being. Actuated by these feelings he had given notice of his intention in the month of May; and in obedience to that determination he had, on the last day of the session, laid his resolution on the table, in order to keep the matter alive.

"This brought him to the answer to the question proposed. The presentation of the resolutions of the legislature of Alabama afforded a fit and proper occasion to give that public notice which he had already informally and privately given to many members of the Senate. He had said that he should bring forward his resolution at the earliest convenient time. And yesterday evening, when he saw the attempt which was made to give to a proceeding emanating from the Post Office Committee, and to which, by the unanimous consent of that committee, a legislative direction had been assigned, a new form, by one of the senators from South Carolina, so as to make it a proceeding against persons, in contradistinction to the public matters embodied in the report; when he heard these persons assailed by one of the senators from South Carolina, in such a manner as to prevent any possibility of doubt concerning them; and when he discovered that the object of these gentle men was impeachment in substance, if not in form, he did at once form the determination to give notice this morning of his intention to move his resolution at the earliest convenient period.

"This was his answer to the question which had been proposed.

"Mr. King, of Alabama, said he was surprised to hear the question of the honorable senator from Kentucky, as he did not expect such an inquiry: for he had supposed it was well understood by every member of the Senate what his sentiments were in regard to the right of instruction. The legislature of Alabama had instructed him to pursue a particular course, and he should obey their instructions. With regard to the resolution to which the legislature alluded, he could merely say that he voted against it at the time it was adopted by the Senate. His opinion as to it was then, as well as now, perfectly understood. If the gentleman from Missouri [Mr. Benton] declined bringing the subject forward relative to the propriety of expunging the resolution in question from the journal of the Senate, he, himself should, at some proper time, do so, and also say something on the great and important question as to the right of instruction. Now, that might be admitted in its fullest extent. He held his place there, subject to the control of the legislature of Alabama, and whenever their instructions reached him, he should be governed by them. He made this statement without entering into the consideration of the propriety or impropriety of senators exercising their own judgment as to the course they deemed most proper to pursue. For himself, never having doubted the right of a legislature to instruct their senators in Congress, he should consider himself culpable if he did not carry their wishes into effect, when properly expressed. And he had hoped there would have been no expression of the Senate at this time, as he was not disposed to enter into a discussion then, for particular reasons, which it was not necessary he should state.

"As to the propriety of acting on the subject then, that would depend upon the opinions of gentlemen as to the importance, the great importance, of having the journal of the Senate freed from what many supposed to be an unconstitutional act of the Senate, although the majority of it thought otherwise. He would now say that, if no one should bring forward a proposition to get the resolution expunged, he, feeling himself bound to obey the opinions of the legislature, should do so, and would vote for it. If no precedent was to be found for such an act of the Senate, he should most unhesitatingly vote for expunging the resolution from the journal of the Senate, in such manner as should be justified by precedent.

"Mr. Clay said the honorable member from Alabama had risen in his place, and presented to the Senate two resolutions, adopted by the legislature of his State, instructing him and his colleague to use their untiring exertions to cause to be expunged from the journals of the Senate certain resolutions passed during the last session of Congress, on the subject of the removal of the deposits from the Bank of the United States. The resolutions of Alabama had been presented; they were accompanied by no motion to carry the intentions of that State into effect; nor were they accompanied by any intimation from the honorable senator, who presented them, of his intention to make any proposition, in relation to them, to the Senate. Under these circumstances, the inquiry was made by him (Mr. C.) of the senator from Alabama, which he thought the occasion called for. The inquiry was a very natural one, and he had learned with unfeigned surprise that the senator did not expect it. He would now say to the senator from Alabama, that of him, and of him alone, were these inquiries made; and with regard to the reply made by another senator (Mr. Benton), he would further say, that his relations to him were not such as to enable him to know what were that senator's intentions, at any time, and on any subject, nor was it necessary he should know them.

"He had nothing further to say, than to express the hope that the senator from Alabama

would, for the present, withdraw the resolutions he had presented; and if, after he had consulted precedents, and a careful examination of the constitution of the United States, he finds that he can, consistently with them, make any propositions for the action of the Senate, he (Mr. C.) would be willing to receive the resolutions, and pay to them all that attention and respect which the proceedings of one of the States of this Union merited. If the gentleman did not pursue that course, he should feel himself bound, by every consideration, by all the obligations which bound a public man to discharge his duty to his God, his country, and his own honor, to resist such an unconstitutional procedure as the reception of these resolutions, without the expressed wish of the legislature of Alabama, and without any intimation from her senators, of any proposition to be made on them, at the very threshold. He did hope that, for the present, the gentleman would withdraw these resolutions, and at a proper time present them with some substantive proposition for the consideration of the Senate. If he did not, the debate must go on, to the exclusion of the important one commenced yesterday, and which every gentleman expected to be continued to-day, as he should in such case feel it necessary to submit a motion for the Senate to decide whether, under present circumstances, the resolutions could be received.

"Mr. Clay declared that when such a resolution should be offered he should discharge the duty which he owed to his God, his country and his honor.

"Mr. King of Alabama, had felt an unwillingness from the first to enter into this discussion, for reasons which would be understood by every gentleman. It was his wish, and was so understood by one or two friends whom he had consulted, that the resolutions should lie on the table for the present, until the debate on another subject was disposed of. In reply to the senator from Kentucky, he must say that he could not, situated as he was, accede to his proposition. His object certainly was to carry into effect the wishes of the legislature of his State; and he, as well as his colleague, felt bound to obey the will of the sovereign State of Alabama, whenever made known to them. He certainly should, at a proper time, present a distinct proposition in relation to these resolutions for the consideration of the Senate; and the senator from Kentucky could then have an opportunity of discharging "his duty to his God, to his country, and his own honor,' in a manner most consistent with his own sense of propriety.

"Mr. Clay would not renew the intimation of any intention on his part, to submit a motion to the Senate, if there was any probability that the senator from Alabama would withdraw the resolutions he had submitted. He now gave notice that, if the senator did not think fit to withdraw them, he should feel it his duty to submit a proposition which would most probably lead to a debate, and prevent the one commenced yesterday from being resumed to-day.

"Mr. Calhoun moved that the resolution be laid upon the table, to give the senator from Alabama [Mr. King], an opportunity to prepare a resolution to accomplish the meditated purpose of rescinding the former resolutions of the Senate. I confess, sir (observed Mr. C.), I feel some curiosity to see how the senator from Alabama will reconcile such a proceeding with the free and independent existence of a Senate. I feel, sir, a great curiosity to hear how that gentleman proposes that the journals are to be kept, if such a procedure is allowed to take effect. I should like to know how he proposes to repeal a journal. By what strange process he would destroy facts, and annihilate events and things which are now the depositories of history. When he shall have satisfied my curiosity on this particular, then there is another thing I am anxious to be informed upon, and that is, what form, what strange and new plan of proceeding, will he suggest for the adoption of the Senate? I will tell him; I will show him the only resource that is left, the point to which he necessarily comes, and that is this: he will be obliged to declare, in his resolution, that the principle upon which the Senate acted was not correct; that it was a false and erroneous principle. And let me ask, what was that principle, which now, it seems, is to be destroyed? The principle on which the Senate acted, the principle which that gentleman engages to overthrow, is this: 'we have a right to express our opinion.' He will be compelled to deny that; or, perhaps, he may take refuge from such a predicament by qualifying his subversion of this first principle of legislative freedom. And how will he qualify the denial of this principle? that is, how will he deny it, and yet apparently maintain it? He has only one resource left, and that is, to pretend that we have a right to express our opinions, but not of the President. This is the end and aim; yes, this is the inevitable consequence and result of such an extraordinary, such a monstrous procedure.

"So then, it is come to this, that the Senate has no right to express its opinion in relation to the Executive? A distinction is now set up between the President and all other officers, and the gentleman is prepared with a resolution to give effect and energy to the distinction; and now, for the first time that such a doctrine has ever been heard on the American soil, he is prepared to profess and publish, in the face of the American people, that old and worn-out dogma of old and worn-out nations, 'the King can do no wrong!' that his officers, his ministers, are alone responsible; that we shall be permitted perhaps to utter our opinions of them; but a unanimous opinion expressed by the Senate, in relation to the President himself, is no longer suffered to exist, is no longer permitted to be given; it must be expunged from the journals.

I confess I am agitated with an intense curiosity: I wish to see with what ingenuity of art-

ful disguise the Senate is to be reduced to the dumb legislation of Bonaparte's Senate. This very question brings on the issue. This very proposition of expunging our resolutions is the question in which the expunging of our legislative freedom and independence is to be agitated. I confess I long to see the strange extremities to which the gentleman will come. It is a question of the utmost magnitude; I an anxious to see it brought on; two senators [Messrs. Benton, and King of Alabama] have pledged themselves to bring it forward. They cannot do it too soon—they cannot too soon expose the horrible reality of the condition to which our country is reduced. I hope they will make no delay; let them hasten in their course; let them lose no time in their effort to expunge the Senate, and dissolve the system of government and constitution. Yes, I entreat them to push their deliberate purpose to a resolve. They have now given origin to a question than which none perhaps is, in its effects and tendencies, of deeper and more radical importance; it is a question more important than that of the bank, or than that of the Post Office, and I am exceedingly anxious to see how far they will carry out the doctrine they have advanced; a doctrine as enslaving and as despotic as any that is maintained by the Autocrat of all the Russias. To give them an opportunity, I move to lay the resolutions on the table, and I promise them that, when they move their resolution, I will be ready to take it up.

"Mr. Clay said that the proposition to receive the resolutions was a preliminary one, and was the question to which he had at first invited the attention of the Senate. The debate, certainly, had been very irregular, and not strictly in order. He had contended, from the first, for the purpose of avoiding an interference with a debate on another subject, that the subject of the Alabama resolutions should not be agitated at that time. The senator from Alabama having refused to withdraw these resolutions, he was compelled to a course which would, in all probability, lead to a protracted debate.

"Mr. Clay then submitted the following:

"*Resolved*, That the resolutions of the legislature of Alabama, presented by the senator from that State, ought not to be acted upon by the Senate, inasmuch as they are not addressed to the Senate, nor contain any request that they be laid before the Senate; and inasmuch, also, as that which those resolutions direct should be done, cannot be done without violating the constitution of the United States."

"Mr. Calhoun here moved to lay the resolutions on the table, which motion took precedence of Mr. Clay's, and was not debatable. He withdrew it, however, at the request of Mr. Clayton.

"Mr. Benton said an objection had been raised to the resolutions of Alabama, by the senator from South Carolina and the senator from Delaware, to which he would briefly reply. Need he refer those gentlemen to the course of their own reading? he would refer them to the case in a State contiguous to South Carolina, where certain proceedings of its legislature were publicly burnt. (The journal of the Yazoo fraud, in Georgia.) Need he refer them to the case of Wilkes? where the British House of Commons expunged certain proceedings from their journal—expunged! not by the childish process of sending out for every copy and cutting a leaf from each, but by a more effectual process. He would describe the *modus* as he read it in the parliamentary history. It was this: There was a total suspension of business in the House, and the clerk, taking the official journal, the original record of its proceedings, and reading the clause to be expunged, obliterated it, word after word, not by making a Saint Andrew's cross over the clause, as is sometimes done in old accounts, but by completely erasing out every letter. This is the way expunging is done, and this is what I propose to get done in the Senate, through the power of the people, upon this lawless condemnation of President Jackson: and no system of tactics or manœuvres shall prevent me from following up the design according to the notice given yesterday.

"Mr. King of Alabama, in reply, said that when the proper time arrived—and he should use his own time, on his own responsibility—he would bring forward the resolution, of which the senator from Missouri had given notice, if not prevented by the previous action of that gentleman. He had no doubt of the power of the Senate to repeal any resolution it had adopted. What! repeal facts? asked the senator from South Carolina. He would ask that gentleman if they had it not in their power to retrace their steps when they have done wrong? If they had it not in their power to correct their own journal when asserting what was not true? The democratic party of the country had spoken, pronounced judgment upon the facts stated in that journal. They had declared that these facts were not true; that the condemnation pronounced against the Chief Magistrate, for having violated the constitution of the United States, was not true; and it was high time that it was stricken from the journal it disgraced.

"Mr. Calhoun observed that the senator from Alabama having made some personal allusions to him, he felt bound to notice them, although not at all disposed to intrude upon the patience of the Senate. The senator had said that he (Mr. C.) was truly connected with party. Now, if by 'party' the gentleman meant that he was enlisted in any political scheme, that he desired to promote the success of any party, or was anxious to see any particular man elevated to the Chief Magistracy, he did him great injustice. It was a long time since he (Mr. C.) had taken any active part in the political affairs of the country. The senator need only to have looked back to his vote, for the last eight years, to have been satisfied that he (Mr. C.) had voluntarily put

himself in the very small minority to which he belonged, and that he had done this to serve the gallant and patriotic State of South Carolina. Would the gentleman say that he did not step forward in defence of South Carolina, in the great and magnanimous stand which she took in defence of her rights? Now, he wished the senator to understand him, that he had put himself in a minority of at least one to a hundred; that he had abandoned party voluntarily, freely; and he would tell every senator—for he was constrained to speak of himself, and therefore he should speak boldly—he would not turn upon his heel for the administration of the affairs of this government. He believed that such was the hold which corruption had obtained in this government, that any man who should undertake to reform it would not be sustained."

Mr. King of Alabama moved that the resolutions be printed, which motion was superseded by a motion to lay it on the table, which prevailed—yeas twenty-seven, nays twenty—as follows:

"YEAS.—Messrs. Bell, Bibb, Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Hendricks, Kent, Knight, Leigh, Mangum, Naudain, Poindexter, Porter, Prentiss, Robbins, Silsbee, Smith, Southard, Swift, Tomlinson, Tyler, Waggaman, Webster.

"NAYS.—Messrs. Benton, Brown, Buchanan, Cuthbert, Grundy, Hill, Kane, King of Alabama, King of Georgia, Linn, McKean, Moore, Morris, Preston, Robinson, Shepley, Tallmadge, Tipton, White, Wright."

And thus the resolutions of a sovereign State, in favor of expunging what it deemed to be a lawless sentence passed upon the President, were refused even a reception and a printing—a circumstance which seemed to augur badly for the final success of the series of expunging motions which I had pledged myself to make. But, in fact, it was not discouraging—but the contrary. It strengthened the conviction that such conduct would sooner induce the change of senators in the democratic States, and permit the act to be done.

CHAPTER CXXIII.

THE EXPUNGING RESOLUTION.

FROM the moment of the Senate's condemnation of General Jackson, Mr. Benton gave notice of his intention to move the expunction of the sentence from the journal, periodically and continually until the object should be effected, or his political life come to its end. In conformity to this notice, he made his formal motion at the session '34–'35; and in these words:

"*Resolved*, That the resolution adopted by the Senate, on the 28th day of March, in the year 1834, in the following words: '*Resolved*, That the President, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both,' be, and the same hereby is, ordered to be expunged from the journals of the Senate; because the said resolution is illegal and unjust, of evil example, indefinite and vague, expressing a criminal charge without specification; and was irregularly and unconstitutionally adopted by the Senate, in subversion of the rights of defence which belong to an accused and impeachable officer; and at a time and under circumstances to endanger the political rights, and to injure the pecuniary interests of the people of the United States."

This proposition was extremely distasteful to the Senate—to the majority which passed the sentence on General Jackson; and Mr. Southard, senator from New Jersey, spoke their sentiments, and his own, when he thus bitterly characterized it as an indictment which the Senate itself was required to try, and to degrade itself in its own condemnation,—he said:

"The object of this resolution (said Mr. S.), is not to obtain an expression from the Senate that their former opinions were erroneous, nor that the Executive acted correctly in relation to the public treasury. It goes further, and denounces the act of the Senate as so unconstitutional, unjustifiable, and offensive, that the evidence of it ought not to be permitted to remain upon the records of the government. It is an indictment against the Senate. The senator from Missouri calls upon us to sit in judgment upon our own act, and warns us that we can save ourselves from future and lasting denunciation and reproach only by pronouncing our own condemnation by our votes. He assures us that he has no desire or intention to degrade the Senate, but the position in which he would place us is one of deep degradation—degradation of the most humiliating character—which not only acknowledges error, and admits inexcusable misconduct in this legislative branch of the government, but bows it down before the majesty of the Executive, and makes us offer incense to his infallibility."

The bitterness of this self trial was aggravated by seeing the course which the public mind

was taking. A current, strong and steady, and constantly swelling, was setting in for the President and against the Senate; and resolutions from the legislatures of several States—Alabama, Mississippi, New Jersey, North Carolina—had already arrived instructing their senators to vote for the expurgation which Mr. Benton proposed. In the mean time he had not yet made his leading speech in favor of his motion; and he judged this to be the proper time to do so, in order to produce its effects on the elections of the ensuing summer; and accordingly now spoke as follows:

"Mr. Benton then rose and addressed the Senate in support of his motion. He said that the resolution which he had offered, though resolved upon, as he had heretofore stated, without consultation with any person, was not resolved upon without great deliberation in his own mind. The criminating resolution, which it was his object to expunge, was presented to the Senate, December 26th, 1833. The senator from Kentucky who introduced it [Mr. Clay], commenced a discussion of it on that day, which was continued through the months of January and February, and to the end, nearly, of the month of March. The vote was taken upon it the 28th of March; and about a fortnight thereafter he announced to the Senate his intention to commence a series of motions for expunging the resolution from the journal. Here, then, were nearly four months for consideration; for the decision was expected; and he had very anxiously considered, during that period, all the difficulties, and all the proprieties, of the step which he meditated. Was the intended motion to clear the journal of the resolution right in itself? The convictions of his judgment told him that it was. Was expurgation the proper mode? Yes; he was thoroughly satisfied that that was the proper mode of proceeding in this case. For the criminating resolution which he wished to get rid of combined all the characteristics of a case which required erasure and obliteration: for it was a case, as he believed, of the exercise of power without authority, without even jurisdiction; illegal, irregular, and unjust. Other modes of annulling the resolution, as rescinding, reversing, repealing, could not be proper in such a case; for they would imply rightful jurisdiction, a lawful authority, a legal action, though an erroneous judgment. All that he denied. He denied the authority of the Senate to pass such a resolution at all; and he affirmed that it was unjust, and contrary to the truth, as well as contrary to law. This being his view of the resolution, he held that the true and proper course, the parliamentary course of proceeding in such a case, was to expunge it.

But, said Mr. B., it is objected that the Senate has no right to expunge any thing from its journal; that it is required by the constitution to keep a journal; and, being so required, could not destroy any part of it. This, said Mr. B., is sticking in the bark; and in the thinnest bark in which a shot, even the smallest, was ever lodged. Various are the meanings of the word keep, used as a verb. To keep a journal is to write down, daily, the history of what you do. For the Senate to keep a journal is to cause to be written down, every day, the account of its proceedings; and, having done that, the constitutional injunction is satisfied. The constitution was satisfied by entering this criminating resolution on the journal; it will be equally satisfied by entering the expunging resolution on the same journal. In each case the Senate keeps a journal of its own proceedings.

It is objected, also, that we have no right to destroy a part of the journal; and that to expunge is to destroy and to prevent the expunged part from being known in future. Not so the fact, said Mr. B. The matter expunged is not destroyed. It is incorporated in the expunging resolution, and lives as long as that lives; the only effect of the expurgation being to express, in the most emphatic manner, the opinion that such matter ought never to have been put in the journal.

Mr. B. said he would support these positions by authority, the authority of eminent examples; and would cite two cases, out of a multitude that might be adduced, to show that expunging was the proper course, the parliamentary course, in such a case as the one now before the Senate, and that the expunged matter was incorporated and preserved in the expunging resolution.

Mr. B. then read, from a volume of British Parliamentary History, the celebrated case of the Middlesex election, in which the resolution to expel the famous John Wilkes was expunged from the journal, but preserved in the expurga-

tory resolution, so as to be just as well read now as if it had never been blotted out from the journals of the British House of Commons. The resolution ran in these words: "That the resolution of the House of the 17th February, 1769, 'that John Wilkes, Esq., having been, in this session of Parliament, expelled this House, was and is incapable of being elected a member to serve in the present Parliament,' be expunged from the journals of this House, as being subversive of the rights of the whole body of electors of this kingdom." Such, said Mr. B., were the terms of the expunging resolution in the case of the Middlesex election, as it was annually introduced from 1769 to 1782; when it was finally passed by a vote of near three to one, and the clause ordered to be expunged was blotted out of the journal, and obliterated, by the clerk at the table, in the presence of the whole House, which remained silent, and all business suspended until the obliteration was complete. Yet the history of the case is not lost. Though blotted out of one part of the journal, it is saved in another; and here, at the distance of half a century, and some thousand miles from London, the whole case is read as fully as if no such operation had ever been performed upon it.

Having given a precedent from British parliamentary history, Mr. B. would give another from American history; not, indeed, from the Congress of the assembled States, but from one of the oldest and most respectable States of the Union: he spoke of Massachusetts, and of the resolution adopted in the Senate of that State during the late war, adverse to the celebration of our national victories; and which, some ten years afterwards, was expunged from the journals by a solemn vote of the Senate.

A year ago, said Mr. B., the Senate tried President Jackson; now the Senate itself is on trial nominally before itself; but in reality before America, Europe, and posterity. We shall give our voices in our own case; we shall vote for or against this motion; and the entry upon the record will be according to the majority of voices. But that is not the end, but the beginning of our trial. We shall be judged by others; by the public, by the present age, and by all posterity! The proceedings of this case, and of this day, will not be limited to the present age; they will go down to posterity, and to the latest ages. President Jackson is not a character to be forgotten in history. His name is not to be confined to the dry catalogue and official nomenclature of mere American Presidents. Like the great Romans who attained the consulship, not by the paltry arts of electioneering, but through a series of illustrious deeds, his name will live, not for the offices he filled, but for the deeds which he performed. He is the first President that has ever received the condemnation of the Senate for the violation of the laws and the constitution, the first whose name is borne upon the journals of the American Senate for the violation of that constitution which he is sworn to observe, and of those laws which he is bound to see faithfully executed. Such a condemnation cannot escape the observation of history. It will be read, considered, judged! when the men of this day, and the passions of this hour, shall have passed to eternal repose.

Before he proceeded to the exposition of the case which he intended to make, he wished to avail himself of an argument which had been conclusive elsewhere, and which he trusted could not be without effect in this Senate. It was the argument of public opinion. In the case of the Middlesex election, it had been decisive with the British House of Commons; in the Massachusetts case, it had been decisive with the Senate of that State. In both these cases many gentlemen yielded their private opinions to public sentiment; and public sentiment having been well pronounced in the case now before the Senate, he had a right to look for the same deferential respect for it here which had been shown elsewhere."

Mr. B. then took up a volume of British parliamentary history for the year 1782, the 22d volume, and read various passages from pages 1407, 1408, 1410, 1411, to show the stress which had been laid on the argument of public opinion in favor of expunging the Middlesex resolutions; and the deference which was paid to it by the House, and by members who had, until then, opposed the motion to expunge. He read first from Mr. Wilkes' opening speech, on renewing his annual motion for the fourteenth time, as follows:

"If the people of England, sir, have at any time explicitly and fully declared an opinion respecting a momentous constitutional question, it has been in regard to the Middlesex election

in 1768." * * * * "Their voice was never heard in a more clear and distinct manner than on this point of the first magnitude for all the electors of the kingdom, and I trust will now be heard favorably."

He then read from Mr. Fox's speech. Mr. Fox had heretofore opposed the expunging resolution, but now yielded to it in obedience to the voice of the people.

"He (Mr. Fox) had turned the question often in his mind, he was still of opinion that the resolution which gentlemen wanted to expunge was founded on proper principles." * * * * "Though he opposed the motion, he felt very little anxiety for the event of the question; for when he found the voice of the people was against the privilege, as he believed was the case at present, he would not preserve the privilege." * * * * "The people had associated, they had declared their sentiments to Parliament, and had taught Parliament to listen to the voice of their constituents."

Having read these passages, Mr. B. said they were the sentiments of an English whig of the old school. Mr. Fox was a whig of the old school. He acknowledged the right of the people to instruct their representatives. He yielded to the general voice himself, though not specially instructed; and he uses the remarkable expression which acknowledges the duty of Parliament to obey the will of the people. "They had declared their sentiments to Parliament, and had taught Parliament to listen to the voice of their constituents." This, said Mr. B., was fifty years ago; it was spoken by a member of Parliament, who, besides being the first debater of his age, was at that time Secretary at War. He acknowledged the duty of Parliament to obey the voice of the people. The son of a peer of the realm, and only not a peer himself because he was not the eldest son, he still acknowledged the great democratic principle which lies at the bottom of all representative government. After this, after such an example, will American Senators be unwilling to obey the people? Will they require people to teach Congress the lesson which Mr. Fox says the English people had taught their Parliament fifty years ago? The voice of the people of the United States had been heard on this subject. The elections declared it. The vote of many legislatures dedeclared it. From the confines of the Republic the voice of the people came rolling in—a swelling tide, rising as it flowed—and covering the capitol with its mountain waves. Can that voice be disregarded? Will members of a republican Congress be less obedient to the voice of the people than were the representatives of a monarchical House of Commons?

Mr. B. then proceeded to the argument of his motion. He moved to expunge the resolution of March 28, 1834, from the journals of the Senate, because it was illegal and unjust; vague and indefinite; a criminal charge without specification; unwarranted by the constitution and laws; subversive of the rights of defence which belong to an accused and impeachable officer; of evil example; and adopted at a time and under circumstances to involve the political rights and the pecuniary interests of the people of the United States in peculiar danger and serious injury.

These reasons for expunging the criminating resolution from the journals, Mr. B. said, were not phrases collected and paraded for effect, or strung together for harmony of sound. They were each, separately and individually, substantive reasons; every word an allegation of fact, or of law. Without going fully into the argument now, he would make an exposition which would lay open his meaning, and enable each allegation, whether of law or of fact, to be fully understood, and replied to in the sense intended.

1. *Illegal and unjust.*—These were the first heads under which Mr. B. would develope his objections, he would say the outline of his objections, to the resolution proposed to be expunged. He held it to be illegal, because it contained a criminal charge, on which the President might be impeached, and for which he might be tried by the Senate. The resolution adopted by the Senate is precisely the first step taken in the House of Representatives to bring on an impeachment. It was a resolution offered by a member in his place, containing a criminal charge against an impeachable officer, debated for a hundred days; and then voted upon by the Senate, and the officer voted to be guilty. This is the precise mode of bringing on an impeachment in the House of Representatives; and, to prove it, Mr. B. would read from a work of approved authority on parliamentary practice; it was from Mr. Jefferson's Manual. Mr. B. then read from the Manual, under the section entitled

Impeachment, and from that head of the section entitled accusation. The writer was giving the British Parliamentary practice, to which our own constitution is conformable. "The Commons, as the grand inquest of the nation, became suitors for penal justice. The general course is to pass a resolution containing a criminal charge against the supposed delinquent; and then to direct some member to impeach him by oral accusation at the bar of the House of Lords, in the name of the Commons."

Repeating a clause of what he had read, Mr. B. said the general course is to pass a criminal charge against the supposed delinquent. This is exactly what the Senate did; and what did it do next? Nothing. And why nothing? Because there was nothing to be done by them but to execute the sentence they had passed; and that they could not do. Penal justice was the consequence of the resolution; and a judgment of penalties could not be attempted on such an irregular proceeding. The only kind of penal justice which the Senate could inflict was that of public opinion; it was to ostracize the President, and to expose him to public odium, as a violator of the laws and constitution of his country. Having shown the resolution to be illegal, Mr. B. would pronounce it to be unjust; for he affirmed the resolution to be untrue; he maintained that the President had violated no law, no part of the constitution, in dismissing Mr. Duane from the Treasury, appointing Mr. Taney, or causing the deposits to be removed; for these were the specifications contained in the original resolution, also in the second modification of the resolution, and intended in the third modification, when stripped of specifications, and reduced to a vague and general charge. It was in this shape of a general charge that the resolution passed. No new specifications were even suggested in debate. The alterations were made voluntarily, by the friends of the resolution, at the last moment of the debate, and just when the vote was to be taken. And why were the specifications then dropped? Because no majority could be found to agree in them? or because it was thought prudent to drop the name of the Bank of the United States? or for both these reasons together? Be that as it may, said Mr. B., the condemnation of the President, and the support of the bank, were connected in the resolution, and will be indissolubly connected in the public mind; and the President was unjustly condemned in the same resolution that befriended and sustained the cause of the bank. He held the condemnation to be untrue in point of fact, and therefore unjust; for he maintained that there was no breach of the laws and constitution in any thing that President Jackson did, in removing Mr. Duane, or in appointing Mr. Taney, or in causing the deposits to be removed. There was no violation of law, or constitution, in any part of these proceedings; on the contrary, the whole country, and the government itself, was redeemed from the dominion of a great and daring moneyed corporation, by the wisdom and energy of these very proceedings.

2. *Vague and indefinite;* a criminal charge without specification. Such was the resolution, Mr. B. said, when it passed the Senate; but such it was not when first introduced, nor even when first altered; in its first and second forms it contained specifications, and these specifications identified the condemnation of the President with the defence of the bank; in its third form, these specifications were omitted, and no others were substituted; the bank and the resolution stood disconnected on the record, but as much connected, in fact, as ever. The resolution was reduced to a vague and indefinite form, on purpose, and in that circumstance, acquired a new character of injustice to President Jackson. His accusers should have specified the law, and the clause in the constitution, which was violated; they should have specified the acts which constituted the violation. This was due to the accused, that he might know on what points to defend himself; it was due to the public, that they might know on what points to hold the accusers to their responsibility, and to make them accountable for an unjust accusation. To sustain this position, Mr. B. had recourse to history and example, and produced the case of Mr. Giles's accusation of General Hamilton, then Secretary of the Treasury, in the year 1793. Mr. Giles, he said, proceeded in a manly, responsible manner. He specified the law and the alleged violations of the law, so that the friends of General Hamilton could see what to defend, and so as to make himself accountable for the accusation. He specified the law, which he believed to be violated, by its date and its title; and he specified the two instances in which he held that law to have been infringed.

Mr. B. said he had a double object in quoting this resolution of Mr. Giles, which was intended to lay the foundation for an impeachment against General Hamilton; it was to show, first, the speciality with which these criminating resolutions should be drawn; next, to show the absence of any allegations of corrupt or wicked intention. The mere violation of law was charged as the offence, as it was in three of the articles of impeachment against Judge Chase; and thus, the absence of an allegation of corrupt intention in the resolution adopted against President Jackson, was no argument against its impeachment character, especially as exhibited in its first and second form, with the criminal averment, "dangerous to the liberties of the people."

For the purpose of exposing the studied vagueness of the resolution as passed, detecting its connection with the Bank of the United States, demonstrating its criminal character in twice retaining the criminal averment, "dangerous to the liberties of the people," and showing the progressive changes it had to undergo before it could conciliate a majority of the votes, Mr. B. would exhibit all three of the resolutions, and read them side by side of each other, as they appeared before the Senate, in the first, second, and third forms which they were made to wear. They appeared first in the embryo, or primordial form; then they assumed their aurelia, or chrysalis state; in the third stage, they reached the ultimate perfection of their imperfect nature.

FIRST FORM.—*December* 26, 1833.

"*Resolved*, That by dismissing the late Secretary of the Treasury, because he would not, contrary to his sense of his own duty, remove the money of the United States, in deposit with the Bank of the United States and its branches, in conformity with the President's opinion, and by appointing his successor to make such removal, which has been done, the President has assumed the exercise of a power over the treasury of the United States not granted to him by the constitution and laws, and dangerous to the liberties of the people."

SECOND FORM.—*March* 28, 1834.

"*Resolved*, That, in taking upon himself the responsibility of removing the deposit of the public money from the Bank of the United States, the President of the United States has assumed the exercise of a power over the treasury of the United States not granted to him by the constitution and laws, and dangerous to the liberties of the people."

THIRD FORM.—*March* 28, 1834.

"*Resolved*, That the President, in the late executive proceedings, in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both."

Having exhibited the original resolution, with its variations, Mr. B. would leave it to others to explain the reasons of such extraordinary metamorphoses. Whether to get rid of the bank association, or to get rid of the impeachment clause, or to conciliate the votes of all who were willing to condemn the President, but could not tell for what, it was not for him to say; but one thing he would venture to say, that the majority who agreed in passing a general resolution, containing a criminal charge against President Jackson, for violating the laws and the constitution, cannot now agree in naming the law or the clause in the constitution violated, or in specifying any act constituting such violation. And here Mr. B. paused, and offered to give way to the gentlemen of the opposition, if they would now undertake to specify any act which President Jackson had done in violation of law or constitution.

3. *Unwarranted by the constitution and laws.*—Mr. B. said this head explained itself. It needed no development to be understood by the Senate or the country. The President was condemned without the form of a trial; and, therefore, his condemnation was unwarranted by the constitution and laws.

4. *Subversive of the rights of defence, which belong to an accused and impeachable officer.*—This head, also (Mr. B. said), explained itself. An accused person had a right to be heard before he was condemned; an impeachable officer could not be condemned unheard by the Senate, without subverting all the rights of defence which belong to him, and disqualifying the Senate to act as impartial judges in the event of his being regularly impeached for the same offence. In this case, the House of Representatives, if they confided in the Senate's condemnation,

would send up an impeachment; that they had not done so, was proof that they had no confidence in the correctness of our decision.

5. *Of evil example.*—Nothing, said Mr. B., could be more unjust and illegal in itself, and therefore more evil in example, than to try people without a hearing, and condemn them without defence. In this case, such a trial and such a condemnation was aggravated by the refusal of the Senate, after their sentence was pronounced, to receive the defence of the President, and let it be printed for the inspection of posterity! So that, if this criminating resolution is not expunged, the singular spectacle will go down to posterity, of a condemnation, and a refusal to permit an answer from the condemned person standing recorded on the pages of the same journal! Mr. B. said the Senate must look forward to the time—far ahead, perhaps, but a time which may come—when this body may be filled with disappointed competitors, or personal enemies of the President, or of aspirants to the very office which he holds, and who may not scruple to undertake to cripple him by senatorial condemnations; to attaint him by convictions; to ostracise him by vote; and lest this should happen, and the present condemnation of President Jackson should become the precedent for such an odious proceeding, the evil example should be arrested, should be removed, by expunging the present sentence from the journals of the Senate. And here Mr. B. would avail himself of a voice which had often been heard in the two Houses of Congress, and always with respect and veneration. It was the voice of a wise man, an honest man, a good man, a patriot; one who knew no cause but the cause of his country; and who, a quarter of a century ago, foresaw and described the scenes of this day, and foretold the consequences which must have happened to any other President, under the circumstances in which President Jackson has been placed. He spoke of Nathaniel Macon of North Carolina, and of the sentiments which he expressed, in the year 1810, when called upon to give a vote in approbation of Mr. Madison's conduct in dismissing Mr. Jackson, the then British minister to the United States. He opposed the resolution of approbation, because the House had nothing to do with the President, in their legislative character, except the passing of laws, calling for information, or impeaching; and, looking into the evil consequences of undertaking to judge of the President's conduct, he foretold the exact predicament in which the Senate is now involved, with respect to President Jackson. Mr. B. then read extracts from the speech of Mr. Macon, on the occasion referred to:

"I am opposed to the resolution, not for the reasons which have been offered against it, nor for any which can be drawn from the documents before us, but because I am opposed to addressing the President of the United States upon any subject whatever. We have nothing to do with him, in our legislative character, except the passing of laws, calling on him for information, or to impeach. On the day of the presidential election, we, in common with our fellow-citizens, are to pass on his conduct, and resolutions of this sort will have no weight on that day. It is on this ground solely that I am opposed to adopting any resolution whatever in relation to the Executive conduct. If the national legislature can pass resolutions to approve the conduct of the President, may they not also pass resolutions to censure? And what would be the situation of the country, if we were now discussing a motion to request the President to recall Mr. Jackson, and again to endeavor to negotiate with him?"

6. *At a time, and under circumstances, to involve the political rights and pecuniary interests of the people of the United States in serious injury and peculiar danger.*—This head of his argument, Mr. B. said, would require a development and detail which he had not deemed necessary at this time, considering what had been said by him at the last session, and what would now be said by others, to give the reasons which he had so briefly touched. But at this point he approached new ground; he entered a new field; he saw an extended horizon of argument and fact expand before him, and it became necessary for him to expand with his subject. The condemnation of the President is indissolubly connected with the cause of the bank! The first form of the resolution exhibited the connection; the second form did also; every speech did the same; for every speech in condemnation of the President was in justification of the bank; every speech in justification of the President was in con-

demnation of the bank; and thus the two objects were identical and reciprocal. The attack of one was a defence of the other; the defence of one was the attack of the other. And thus it continued for the long protracted period of nearly one hundred days—from December 26th, 1833, to March 28th, 1834—when, for reasons not explained to the Senate, upon a private consultation among the friends of the resolution, the mover of it came forward to the Secretary's table, and voluntarily made the alterations which cut the connection between the bank and the resolution! but it stood upon the record, by striking out every thing relative to the dismissal of Mr. Duane, the appointment of Mr. Taney, and the removal of the deposits. But the alteration was made in the record only. The connection still subsisted in fact, now lives in memory, and shall live in history. Yes, sir, said Mr. B., addressing himself to the President of the Senate; yes, sir, the condemnation of the President was indissolubly connected with the cause of the bank, with the removal of the deposits, the renewal of the charter, the restoration of the deposits, the vindication of Mr. Duane, the rejection of Mr. Taney, the fate of elections, the overthrow of Jackson's administration, the fall of prices, the distress meetings, the distress memorials, the distress committees, the distress speeches; and all the long list of hapless measures which astonished, terrified, afflicted, and deeply injured the country during the long and agonized protraction of the famous panic session. All these things are connected, said Mr. B.; and it became his duty to place a part of the proof which established the connection before the Senate and the people.

Mr. B. then took up the appendix to the report made by the Senate's Committee of Finance on the bank, commonly called Mr. Tyler's report, and read extracts from instructions sent to two-and-twenty branches of the bank, contemporaneously with the progress of the debate on the criminating resolutions; the object and effect of which, and their connection with the debate in the Senate, would be quickly seen. Premising that the bank had dispatched orders to the same branches, in the month of August, and had curtailed $4,066,000, and again, in the month of October, to curtail $5,825,000, and to increase the rates of their exchange, and had expressly stated in a circular, on the 17th of that month, that this reduction would place the branches in a position of entire security, Mr. B. invoked attention to the shower of orders, and their dates, which he was about to read. He read passages from page 77 to 82, inclusive. They were all extracts of letters from the president of the bank in person, to the presidents of the branches; for Mr. B. said it must be remembered, as one of the peculiar features of the bank attack upon the country last winter, that the whole business of conducting this curtailment, and raising exchanges, and doing whatever it pleased with the commerce, currency, and business of the country, was withdrawn from the board of directors, and confided to one of those convenient committees of which the president is ex officio member and creator; and which, in this case, was expressly absolved from reporting to the board of directors! The letters, then, are all from Nicholas Biddle, president, and not from Samuel Jaudon, cashier, and are addressed direct to the presidents of the branch banks.

When Mr. B. had finished reading these extracts, he turned to the report made by the senator from Virginia, who sat on his right [Mr. Tyler], where all that was said about these new measures of hostility, and the propriety of the bank's conduct in this third curtailment, and in its increase upon rates of exchange, was compressed into twenty lines, and the wisdom or necessity of them were left to be pronounced upon by the judgment of the Senate. Mr. B. would read those twenty lines of that report:

"The whole amount of reduction ordered by the above proceedings (curtailment ordered on 8th and 17th of October) was $5,825,906. The same table, No. 4, exhibits the fact, that on the 23d of January a further reduction was ordered to the amount of $3,320,000. This was communicated to the offices in letters from the president, stating 'that the present situation of the bank, and the new measures of hostility which are understood to be in contemplation, make it expedient to place the institution beyond the reach of all danger; for this purpose, I am directed to instruct your office to conduct its business on the following footing' (appendix, No. 9, copies of letters). The offices of Cincinnati, Louisville, Lexington, St. Louis, Nashville, and Natchez, were further directed to confine themselves to ninety days' bills on Baltimore, and the

cities north of it, of which they were allowed to purchase any amount their means would justify: and to bills on New Orleans, which they were to take only in payment of pre-existing debts to the bank and its offices; while the office at New Orleans was directed to abstain from drawing on the Western offices, and to make its purchases mainly on the North Atlantic cities. The committee has thus given a full, and somewhat elaborate detail of the various measures resorted to by the bank, from the 13th of August, 1833; of their wisdom and necessity the Senate will best be able to pronounce a correct judgment."

This, Mr. B. said, was the meagre and stinted manner in which the report treated a transaction which he would show to be the most cold-blooded, calculating, and diabolical, which the annals of any country on this side of Asia could exhibit.

[Mr. Tyler here said there were two pages on this subject to be found at another part of the report, and opened the report at the place for Mr. B.]

Mr. B. said the two pages contained but few allusions to this subject, and nothing to add to or vary what was contained in the twenty lines he had read. He looked upon it as a great omission in the report; the more so as the committee had been expressly commanded to report upon the curtailments and the conduct of the bank in the business of internal exchange. He had hoped to have had searching inquiries and detailed statements of facts on these vital points. He looked to the senator from Virginia [Mr. Tyler] for these inquiries and statements. He wished him to show, by the manner in which he would drag to light, and expose to view, the vast crimes of the bank, that the Old Dominion was still the mother of the Gracchi; that the old lady was not yet forty-five; that she could breed sons! Sons to emulate the fame of the Scipios. But he was disappointed. The report was dumb, silent, speechless, upon the operations of the bank during its terrible campaign of panic and pressure upon the American people. And now he would pay one instalment of the speech which had been promised some time ago on the subject of this report; for there was part of that speech which was strictly applicable and appropriate to the head he was now discussing.

Mr. B. then addressed himself to the senator from Virginia, who sat on his right [Mr. Tyler], and requested him to supply an omission in his report, and to inform what were those new measures of hostility alluded to in the two-and-twenty letters of instruction of the bank, and repeated in the report, and which were made the pretext for this third curtailment, and these new and extraordinary restrictions and impositions upon the purchase of bills of exchange.

[Mr. Tyler answered that it was the expected prohibition upon the receivability of the branch bank drafts in payment of the federal revenue.]

Mr. B. resumed: The senator is right. These drafts are mentioned in one of the circular letters, and but one of them, as the new measure understood to be in contemplation, and which understanding had been made the pretext for scourging the country. He (Mr. B.) was incapable of a theatrical artifice—a stage trick—in a grave debate. He had no question but that the senator could answer his question, and he knew that he had answered it truly; but he wanted his testimony, his evidence, against the bank; he wanted proof to tie the bank down to this answer, to this pretext, to this thin disguise for her conduct in scourging the country. The answer is now given; the proof is adduced; and the apprehended prohibition of the receivability of the branch drafts stands both as the pretext and the sole pretext for the pressure commenced in January, the doubling the rates of exchange, breaking up exchanges between the five Western branch banks, and concentrating the collection of bills of exchange upon four great commercial cities.

Mr. B. then took six positions, which he enumerated, and undertook to demonstrate to be true. They were:

1. That it was untrue, in point of fact, that there were any new measures in contemplation, or action, to destroy the bank.

2. That it was untrue, in point of fact, that the President harbored hostile and revengeful designs against the existence of the bank.

3. That it was untrue, in point of fact, that there was any necessity for this third curtailment, which was ordered the last of January.

4. That there was no excuse, justification, or apology for the conduct of the bank in relation to domestic exchange, in doubling its rates, breaking it up between the five Western branches, turning the collection of bills upon the principa-

commercial cities, and forbidding the branch at New Orleans to purchase bills on any part of the West.

5. That this curtailment and these exchange regulations in January were political and revolutionary, and connected themselves with the resolution in the Senate for the condemnation of President Jackson.

6. That the distress of the country was occasioned by the Bank of the United States and the Senate of the United States, and not by the removal of the deposits.

Having stated his positions, Mr. B. proceeded to demonstrate them.

1. As to the new measures to destroy the bank. Mr. B. said there were no such measures. The one indicated, that of stopping the receipt of the branch bank drafts in payments to the United States, existed nowhere but in the two-and-twenty letters of instruction of the president of the bank. There is not even an allegation that the measure existed; the language is "in contemplation"—"understood to be in contemplation," and upon this flimsy pretext of an understanding of something in contemplation, and which something never took place, a set of ruthless orders are sent out to every quarter of the Union to make a pressure for money, and to embarrass the domestic exchanges of the Union. Three days would have brought an answer from Washington to Philadelphia—from the Treasury to the bank; and let it be known that there was no intention to stop the receipt of these drafts at that time. But it would seem that the bank did not recognize the legitimacy of Mr. Taney's appointment! and therefore would not condescend to correspond with him as Secretary of the Treasury! But time gave the answer, even if the bank would not inquire at the Treasury. Day after day, week after week, month after month passed off, and these redoubtable new measures never made their appearance. Why not then stop the curtailment, and restore the exchanges to their former footing? February, March, April, May, June, five months, one hundred and fifty days, all passed away; the new measures never came; and yet the pressure upon the country was kept up; the two-and-twenty orders were continued in force. What can be thought of an institution which, being armed by law with power over the moneyed system of the whole country, should proceed to exercise that power to distress that country for money, upon an understanding that something was in contemplation; and never inquire if its understanding was correct, nor cease its operations, when each successive day, for one hundred and fifty days, proved to it that no such thing was in contemplation? At last, on the 27th of June, when the pressure is to be relaxed, it is done upon another ground; not upon the ground that the new measures had never taken effect, but because Congress was about to rise without having done any thing for the bank. Here is a clear confession that the allegation of new measures was a mere pretext; and that the motive was to operate upon Congress, and force a restoration of the deposits, and a renewal of the charter.

Mr. B. said he knew all about these drafts. The President always condemned their legality, and was for stopping the receipt of them. Mr. Taney, when Attorney General, condemned them in 1831. Mr. B. had applied to Mr. McLane, in 1832, to stop them; but he came to no decision. He applied to Mr. Duane, by letter, as soon as he came into the Treasury; but got no answer. He applied to Mr. Taney as soon as he arrived at Washington in the fall of 1833; and Mr. Taney decided that he would not stop them until the moneyed concerns of the country had recovered their tranquillity and prosperity, lest the bank should make it the pretext of new attempts to distress the country; and thus the very thing which Mr. Taney refused to do, lest it should be made a pretext for oppression, was falsely converted into a pretext to do what he was determined they should have no pretext for doing.

But Mr. B. took higher ground still; it was this: that, even if the receipt for the drafts had been stopped in January or February, there would have been no necessity on that account for curtailing debts and embarrassing exchanges. This ground he sustained by showing—1st. That the bank had at that time two millions of dollars in Europe, lying idle, as a fund to draw bills of exchange upon; and the mere sale of bills on this sum would have met every demand which the rejection of the drafts could have thrown upon it. 2. That it sent the money it raised by this curtailment to Europe, to the amount of three and a half millions; and thereby showed that it was not collected to meet any demand at home. 3d. That the bank had at

that time (January, 1834) the sum of $4,230,509 of public money in hand, and therefore had United States money enough in possession to balance any injury from rejection of drafts. 4th. That the bank had notes enough on hand to supply the place of all the drafts, even if they were all driven in. 5th. That it had stopped the receipt of these branch drafts itself at the branches, except each for its own in November, 1833, and was compelled to resume their receipt by the energetic and just conduct of Mr. Taney, in giving transfer drafts to be used against the branches which would not honour the notes and drafts of the other branches. Here Mr. B. turned upon Mr. Tyler's report, and severely arraigned it for alleging that the bank always honored its paper at every point, and furnishing a supply of negative testimony to prove that assertion, when there was a large mass of positive testimony, the disinterested evidence of numerous respectable persons, to prove the contrary, and which the committee had not noticed.

Finally, M. B. had recourse to Mr. Biddle's own testimony to annihilate his (Mr. Biddle's) affected alarm for the destruction of the bank, and the injury to the country from the repulse of these famous branch drafts from revenue payments. It was in a letter of Mr. Biddle to Mr. Woodbury in the fall of 1834, when the receipt of these drafts was actually stopped, and in the order which was issued to the branches to continue to issue them as usual. Mr. B. read a passage from this letter to show that the receipt of these drafts was always a mere Treasury arrangement, in which the bank felt no interest; that the refusal to receive them was an object at all times of perfect indifference to the bank, and would not have been even noticed by it, if Mr. Woodbury had not sent him a copy of his circular.

Mr. B. invoked the attention of the Senate upon the fatal contradictions which this letter of November, and these instructions of January, 1834, exhibit. In January, the mere understanding of a design in contemplation to exclude these drafts from revenue payments, is a danger of such alarming magnitude, an invasion of the rights of the bank in such a flagrant manner, a proof of such vindictive determination to prostrate, sacrifice, and ruin the institution, that the entire continent must be laid under contribution to raise money to enable the institution to stand the shock! November of the same year when the order for the rejection actually comes, then the same measure is declared to be one of the utmost indifference to the bank; in which it never felt any interest; which the Treasury adopted for its own convenience; which was always under the exclusive control of the Treasury; about which the bank had never expressed a wish; of which it would have taken no notice if the Secretary had not sent them a circular; and the expediency of which it was not intended to question in the remotest degree! Having pointed out these fatal contradictions, Mr. B. said it was a case in which the emphatic ejaculation might well be repeated: Oh! that mine enemy would write a book!

To put the seal of the bank's contempt on the order prohibiting the receipt of these drafts, to show its disregard of law, and its ability to sustain its drafts upon its own resources, and without the advantage of government receivability, Mr. B. read the order which the president of the bank addressed to all the branches on the receipt of the circular which gave him information of the rejection of these drafts. It was in these words: "This will make no alteration whatever in your practice, with regard to issuing or paying these drafts, which you will continue as heretofore." What a pity, said Mr. B., that the president of the bank could not have thought of issuing such an order as this in January, instead of sending forth the mandate for curtailing debts, embarrassing exchange, levying three millions and a half, alarming the country with the cry of danger, and exhibiting President Jackson as a vindictive tyrant, intent upon the ruin of the bank!

2. The hostility of the President to the bank. This assertion, said Mr. B., so incontinently reiterated by the president of the bank, is taken up and repeated by our Finance Committee, to whose report he was now paying an instalment of those respects which he had promised them. This assertion, so far as the bank and the committee are concerned in making it, is an assertion without evidence, and, so far as the facts are concerned, is an assertion against evidence. If there is any evidence of the bank or the committee to support this assertion, in the forty pages of the report, or the three hundred pages of the appendix, the four members of the Finance Committee can produce it when they come to reply. That there was evidence to contradict it, he was now ready

to show. This evidence consisted in four or five public and prominent facts, which he would now mention, and in other circumstances, which he would show hereafter. The first was the fact which he mentioned when this report was first read on the 18th of December last, namely, that President Jackson had nominated Mr. Biddle at the head of the government directors, and thereby indicated him for the presidency of the bank, for three successive years after this hostility was supposed to have commenced. The second was, that the President had never ordered a *scire facias* to issue against the bank to vacate its charter, which he has the right, under the twenty-third section of the charter, to do, whenever he believed the charter to be violated. The third, that during many years, he has never required his Secretaries of the Treasury to stop the governmental receipt of the branch bank drafts, although his own mind upon their illegality had been made up for several years past. The fourth, that after all the clamor—all the invocations upon heaven and earth against the tyranny of removing the deposits—those deposits have never happened to be quite entirely removed! An average of near four millions of dollars of public money has remained in the hands of the bank for each month, from the 1st of October, 1833, to the 1st of January, 1835, inclusively! embracing the entire period from the time the order was to take effect against depositing in the Bank of the United States down to the commencement of the present year! So far are the deposits from being quite entirely removed, as the public are led to believe, that, at the distance of fifteen months from the time the order for the removal began to take effect, there remained in the hands of the bank the large sum of three millions eight hundred and seventy-eight thousand nine hundred and fifty-one dollars and ninety-seven cents, according to her own showing in her monthly statements. That President Jackson is, and always has been, opposed to the existence of the bank, is a fact as true as it is honorable to him; that he is hostile to it, in the vindictive and revengeful sense of the phrase, is an assertion, Mr. B. would take the liberty to repeat, without evidence, so far as he could see into the proofs of the committee, and against evidence, to the full extent of all the testimony within his view. Far from indulging in revengeful resentment against the bank, he has been patient, indulgent, and forebearing towards it, to a degree hardly compatible with his duty to his country, and with his constitutional supervision over the faithful execution of the laws; to a degree which has drawn upon him, as a deduction from his own conduct, an argument in favor of the legality of this very branch bank currency, on the part of this very committee, as may be seen in their report. Again, the very circumstance on which this charge of hostility rests in the two-and-twenty letters of Mr. Biddle, proves it to be untrue: for the stoppage of the drafts, understood to be in contemplation, was not in contemplation, and did not take place until the pecuniary concerns of the country were tranquil and prosperous; and when it did thus take place, the president of the bank declared it to have been always the exclusive right of the government to do it, in which the bank had no interest, and for which it cared nothing. No, said Mr. B., the President has opposed the recharter of the bank; he has not attacked its present charter; he has opposed its future, not its present existence; and those who characterize this opposition to a future charter as attacking the bank, and destroying the bank, must admit that they advocate the hereditary right of the bank to a new charter after the old one is out; and that they deny to a public man the right of opposing that hereditary claim.

3. That there was no necessity for this third curtailment ordered in January. Mr. B. said, to have a full conception of the truth of this position, it was proper to recollect that the bank made its first curtailment in August, when the appointment of an agent to arrange with the deposit banks announced the fact that the Bank of the United States was soon to cease to be the depository of public moneys. The reduction under that first curtailment was $4,066,000. The second was in October, and under that order for curtailment the reduction was $5,825,000. The whole reduction, then, consequent upon the expected and actual removal of deposits, was $9,891,000. At the same time the whole amount of deposits on the first day of October, the day for the removal, or rather for the cessation to deposit in the United States Bank to take effect, was $9 868,435; and on the first day of February, 1834, when the third curtailment was ordered, there were still $3,066,561 of these deposits on hand, and have remained on hand to near that

amount ever since; so that the bank in the two first curtailments, accomplished between August and January, had actually curtailed to the whole amount, and to the exact amount, upon precise calculation, of the amount of deposits on hand on the first of October; and still had, on the first of January, a fraction over three millions of the deposits in its possession. This simple statement of sums and dates shows that there was no necessity for ordering a further reduction of $3,320,000 in January, as the bank had already curtailed to the whole amount of the deposits, and $22,500 over. Nor did the bank put the third curtailment upon that ground, but upon the new measures in contemplation; thus leaving her advocates every where still to attribute the pressure created by the third curtailment to the old cause of the removal of the deposits. This simple statement of facts is sufficient to show that this third curtailment was unnecessary. What confirms that view, is that the bank remitted to Europe, as fast as it was collected, the whole amount of the curtailment, and $105,000 over; there to lie idle until she could raise the foreign exchange to eight per cent. above par; which she had sunk to five per cent. below par, and thus make two sets of profits out of one operation in distressing and pressing the country.

4. No excuse for doubling the rates of exchange, breaking up the exchange business in the West, forbidding the branch at New Orleans to purchase a single bill on the West, and concentrating the collection of exchange on the four great commercial cities. For this, Mr. B. said, no apology, no excuse, no justification, was offered by the bank. The act stood unjustified and unjustifiable. The bank itself has shrunk from the attempt to justify it; our committee. in that report of which the bank proclaims itself to be so proud, gives no opinion in its brief notice of a few lines upon this transaction; but leaves it to the Senate to pronounce upon its wisdom and necessity! The committee, Mr. B. said, had failed in their duty to their country by the manner in which they had veiled this affair of the exchanges in a few lines; and then blinked the question of its enormity, by referring it to the judgment of the Senate. He made the same remark upon the contemporaneous measure of the third curtailment; and called on the author of the report [Mr. Tyler] to defend his report, and to defend the conduct of the bank now, if he could; and requested him to receive all this part of his speech as a further instalment paid of what was due to that report on the bank.

5. That the curtailment and exchange regulations of January were political and revolutionary, and connect themselves with the contemporaneous proceedings of the Senate for the condemnation of the President. That this curtailmeut, and these regulations were wanton and wicked, was a proposition, Mr. B. said, which resulted as a logical conclusion from what had been already shown, namely, that they were causeless and unnecessary, and done upon pretexts which have been demonstrated to be false. That they were political and revolutionary, and connected with the proceedings in the Senate for the condemnation of the President, he would now prove. In the exhibition of this proof, the first thing to be looked to is the chronology of the events—the time at which the bank made this third curtailment, and sent forth these exchange regulations—and the time at which the Senate carried on the proceeding against the President. Viewed under this aspect, the two movements are not only connected, but identical and inseparable. The time for the condemnatioı of the President covers the period from the 25th of December, 1833, to the 28th of March, 1834; the bank movement is included in the same period; the orders for the pressure were issued from the 21st of January to the 1st of February, and were to accomplish their effect in the month of March, and by the first of April; except in one place, where, for a reason which will be shown at a proper time, the accomplishment of the effect was protracted till the 10th day of April. These, Mr. B. said, were the dates of issuing the orders and accomplishing their effect; the date of the adoption of the resolution in the bank for this movement is not given in the report, but must have been, in the nature of things, anterior to the issue of the orders; it must have been some days before the issue of the orders; and was, in all probability, a few days after the commencement of the movement in the Senate against the President. The next point of connection, Mr. B. said, was in the subject matter; aud here it was necessary to recur to the original form, and to the second form, of the resolution for the condemnation of the President. In the

first, or primordial form, the resolution was expressly connected with the cause of the bank. It was, for dismissing Mr. Duane because he would not remove the deposits, and appointing Mr. Taney because he would remove them. In the second form of the resolution—that form which naturalists would call its aurelia, or chrysalis state—the phraseology of the connection was varied, but still the connection was retained and expressed. The names of Mr. Duane and Mr. Taney were dropped; and the removal of the deposits upon his own responsibility, was the alleged offence of the President. In its third and ultimate transformation, all allusion to the bank was dropped, and the vague term "revenue" was substituted; but it was a substitution of phrase only, without any alteration of sense or meaning. The resolution is the same under all its phases. It is still the bank, and Mr. Taney, and Mr. Duane, and the removal of the deposits, which are the things to be understood, though no longer prudent to express. All these substantial objects are veiled, and substituted by the empty phrase "revenue;" which might signify the force bill in South Carolina, and the bank question in Philadelphia! The vagueness of the expression left every gentleman to fight upon his own hook, and to hang his vote upon any mental reservation which could be found in his own mind! and Mr. B. would go before the intelligence of any rational man with the declaration that the connection between the condemnation of the President and the cause of the bank was doubly proved; first by the words of the resolution, and next by the omission of those words. The next point of connection, Mr. B. said, was detected in the times, varied to suit each State, at which the pressure under the curtailment was to reach its maximum; and the manner in which the restrictions upon the sale and purchase of bills of exchange was made to fall exclusively and heavily upon the principal commercial cities, at the moment when most deeply engaged in the purchase and shipment of produce. Thus, in New-York, where the great charter elections were to take place during the first week in April, the curtailment was to reach its maximum pressure on the first day of that month. In Virginia, where the elections are continued throughout the whole month of April, the pressure was not to reach its climax until the tenth day of that month. In Connecticut, where the elections occurred about the first of April, the pressure was to have its last turn of the screw in the month of March. And in these three instances, the only ones in which the elections were depending, the political bearing of the pressure was clear and undeniable. The sympathy in the Senate in the results of those political calculations, was displayed in the exultation which broke out on receiving the news of the elections in Virginia, New-York, and Connecticut—an exultation which broke out into the most extravagant rejoicings over the supposed downfall of the administration. The careful calculation to make the pressure and the exchange regulations fall upon the commercial cities at the moment to injure commerce most, was also visible in the times fixed for each. Thus, in all the western cities, Cincinnati, Louisville, Lexington, Nashville, Pittsburg, Saint Louis, the pressure was to reach its maximum by the first day of March; the shipments of western produce to New Orleans being mostly over by that time; but in New Orleans the pressure was to be continued till the first of April, because the shipping season is protracted there till that month, and thus the produce which left the upper States under the depression of the pressure, was to meet the same pressure upon its arrival in New Orleans; and thus enable the friends of the bank to read their ruined prices of western produce on the floor of this Senate. In Baltimore, the first of March was fixed, which would cover the active business season there. So much, said Mr. B., for the pressure by curtailment; now for the pressure by bills of exchange, and he would take the case of New Orleans first. All the branches in the West, and every where else in the Union, were authorized to purchase bills of exchange at short dates, not exceeding ninety days, on that emporium of the West; so as to increase the demand for money there; at the same time the branch in New Orleans was forbid to purchase a single bill in any part of the valley of the Mississippi. This prohibition was for two purposes; first, to break up exchange; and next, to make money scarce in New Orleans; as, in default of bills of exchange, silver would be shipped, and the shipping of silver would make a pressure upon all the local banks. To help out this operation, Mr. B. said, it must be well and continually

remembered that the Bank of the United States itself abducted about one million and a quarter of hard dollars from New Orleans during the period of the pressure there; thus proving that all her affected necessity for curtailment was a false and wicked pretext for the cover of her own political and revolutionary views.

The case of the western branches was next adverted to by Mr. B. Among these, he said, the business of exchange was broken up *in toto*. The five western branches were forbid to purchase exchange at all; and this tyrannical order was not even veiled with the pretext of an excuse. Upon the North Atlantic cities, Mr. B. said, unlimited authority to all the branches was given to purchase bills, all at short dates, under ninety days; and all intended to become due during the shipping season, and to increase the demand for money while the curtailment was going on, and the screw turning from day to day to lessen the capacity of getting money, and make it more scarce as the demand for it became urgent. Thus were the great commercial cities, New Orleans, New-York, Baltimore, and Philadelphia, subject to a double process of oppression; and that at the precise season of purchasing and shipping crops, so as to make their distress recoil upon the planters and farmers; and all this upon the pretext of new measures understood to be in contemplation. Time again becomes material, said Mr. B. The bank pressure was arranged in January, to reach its climax in March and the first of April; the debate in the Senate for the condemnation of President Jackson, which commenced in the last days of December, was protracted over the whole period of the bank pressure, and reached its consummation at the same time; namely, the 28th day of March. The two movements covered the same period of time, reached their conclusions together, and co-operated in the effect to be produced; and during the three months of this double movement, the Senate chamber resounded daily with the cry that the tyranny and vengeance of the President, and his violation of laws and constitution, had created the whole distress, and struck the nation from a state of Arcadian felicity—from a condition of unparalleled prosperity—to the lowest depth of misery and ruin. And here Mr. B. obtested and besought the Senate to consider the indifference with which the bank treated its friends in the Senate, and the sorrowful contradiction in which they were left to be caught. In the Senate, and all over the country, the friends of the bank were allowed to go on with the old tune, and run upon the wrong scent, of removal of the deposits creating all the distress; while, in the two-and-twenty circular letters dispatched to create this distress, it was not the old measure alone, but the new measures contemplated, which constituted the pretext for this very same distress. Thus, the bank stood upon one pretext, and its friends stood upon another; and for this mortifying contradiction, in which all its friends have become exposed to see their mournful speeches exploded by the bank itself, a just indignation ought now to be felt by all the friends of the bank, who were laying the distress to the removal of the deposits, and daily crying out that nothing could relieve the country but the restoration of the deposits, or the recharter of the bank; while the bank itself was writing to its branches that it was the new measures understood to be in contemplation that was occa sioning all the mischief. Mr. B. would close this head with a remark which ought to excite reflections which should never die away; which should be remembered as long as national banks existed, or asked for existence. It was this: That here was a proved case of a national bank availing itself of its organization, and of its power, to send secret orders, upon a false pretext, to every part of the Union, to create distress and panic for the purpose of accomplishing an object of its own; and then publicly and calumniously charging all this mischief on the act of the President for the removal of the deposits. This recollection should warn the country against ever permitting another national bank to repeat a crime of such frightful immorality, and such enormous injury to the business and property of the people. Mr. B. expressed his profound regret that the report of the bank committee was silent upon these dreadful enormities, while so elaborate upon trifles in favor of the bank. He was indignant at the mischief done to private property; the fall in the price of staples, of stocks, and of all real and personal estate; at the ruin of many merchants, and the injury of many citizens, which took place during this hideous season of panic and pressure. He was indignant at the bank for creating it. and still more for its criminal audacity in charging

its own conduct upon the President; and he was mortified, profoundly mortified, that all this should have escaped the attention of the Finance Committee, and enabled them to make a report of which the bank, in its official organ, declares itself to be justly proud; which it now has undergoing the usual process of diffusion through the publication of supplemental gazettes; which it openly avers would have insured the recharter if it had come out in time; and to which it now looks for such recharter as soon as President Jackson retires, and the country can be thrown into confusion by the distractions of a presidential election.

Mr. B. now took up another head of evidence to prove the fact that the curtailment and exchange regulations of January were political and revolutionary, and connected with the proceedings of the Senate for the condemnation of the President; and here he would proceed upon evidence drawn from the bank itself. Mr. B. then read extracts from Mr. Biddle's letters of instructions (January 30, 1834) to Joseph Johnson, Esquire, president of the branch bank at Charleston, South Carolina. They were as follows: "With a view to meet the coming crisis in the banking concerns of the country, and especially to provide against new measures of hostility understood to be in contemplation by the executive officers at Washington, a general reduction has been ordered at the several offices, and I have now to ask your particular attention to accomplish it." * * * * "It is as disagreeable to us as it can be to yourselves to impose any restrictions upon the business of the office. But you are perfectly aware of the effort which has been making for some time to prostrate the bank, to which this new measure to which I have alluded will soon be added, unless the projectors become alarmed at it. On the defeat of these attempts to destroy the bank depends, in our deliberate judgment, not merely the pecuniary interests, but the whole free institutions of our country; and our determination is, by even a temporary sacrifice of profit, to place the bank entirely beyond the reach of those who meditate its destruction."

Mr. B. would invoke the deepest attention to this letter. The passages which he had read were not in the circulars addressed at the same time to the other branches. It was confined to this letter, with something similar in one more which he would presently read. The coming crisis in the banking concerns of the country is here shadowed forth, and secretly foretold, three months before it happened; and with good reason, for the prophet of the evil was to assist in fulfilling his prophecy. With this secret prediction, made in January, is to be connected the public predictions contemporaneously made on this floor, and continued till April, when the explosion of some banks in this district was proclaimed as the commencement of the general ruin which was to involve all local banks, and especially the whole safety-fund list of banks, in one universal catastrophe. The Senate would remember all this, and spare him repetitions which must now be heard with pain, though uttered with satisfaction a few months ago. The whole free institutions of our country was the next phrase in the letter to which Mr. B. called attention. He said that in this phrase the political designs of the bank stood revealed; and he averred that this language was identical with that used upon this floor. Here, then, is the secret order of the bank, avowing that the whole free institutions of the country are taken into its holy keeping; and that it was determined to submit to a temporary sacrifice of profit in sustaining the bank, which itself sustains the whole free institutions of the country! What insolence! What audacity! But, said Mr. B., what is here meant by free institutions, was the elections! and the true meaning of Mr. Biddle's letter is, that the bank meant to submit to temporary sacrifices of money to carry the elections, and put down the Jackson administration. No other meaning can be put upon the words; and if there could, there is further proof in reserve to nail the infamous and wicked design upon the bank. Another passage in this letter, Mr. B. would point out, and then proceed to a new piece of evidence. It was the passage which said this new measure will soon be added, unless the projectors become alarmed at it. Now, said Mr. B., take this as you please; either that the projectors did, or did not, become alarmed at their new measure; the fact is clear that no new measure was put in force, and that the bank, in proceeding to act upon that assumption, was inventing and fabricating a pretext to justify the scourge which it was meditating against the country. Dates are here material, said Mr. B. The first letters, founded

on these new measures, were dated the 21st of January; and spoke of them as being understood to be in contemplation. This letter to Mr. Johnson, which speaks hypothetically, is dated the 30th of January, being eight days later; in which time the bank had doubtless heard that its understanding about what was in contemplation was all false; and to cover its retreat from having sent a falsehood to two-and-twenty branches, it gives notice that the new measures which were the alleged pretext of panic and pressure upon the country were not to take place, because the projectors had got alarmed. The beautiful idea of the projectors—that is to say, General Jackson, for he is the person intended—becoming alarmed at interdicting the reception of illegal drafts at the treasury, is conjured up as a salvo for the honor of the bank, in making two-and-twenty instances of false assertion. But the panic and pressure orders are not countermanded. They are to go on, although the projectors do become alarmed, and although the new measure be dropped.

Mr. B. had an extract from a second letter to read upon this subject. It was to the president of the New Orleans branch, Mr. W. W. Montgomery, and dated Bank of the United States the 24th of January. He read the extract: "The state of things here is very gloomy; and, unless Congress takes some decided step to prevent the progress of the troubles, they may soon outgrow our control. Thus circumstanced, our first duty is, to the institution, to preserve it from all danger; and we are therefore anxious, for a short time at least, to keep our business within manageable limits, and to make some sacrifice of property to entire security. It is a moment of great interest, and exposed to sudden changes in public affairs, which may induce the bank to conform its policy to them; of these dangers, should any occur, you will have early advice." When he had read this extract, Mr. B. proceeded to comment upon it; almost every word of it being pregnant with political and revolutionary meaning of the plainest import. The whole extract, he said, was the language of a politician, not of a banker, and looked to political events to which the bank intended to conform its policy. In this way, he commented successively upon the gloomy state of things at the bank (for the letter is dated in the bank), and the troubles which were to outgrow their control, unless Congress took some decided step. These troubles, Mr. B. said, could not be the dangers to the bank; for the bank had taken entire care of itself in the two-and-twenty orders which it had sent out to curtail loans and break up exchanges. Every one of these orders announced the power of the bank, and the determination of the bank, to take care of itself. Troubles outgrow our control! What insolence! When the bank itself, and its confederates, were the creators and fomenters of all these troubles, the progress of which it affected to deplore. The next words—moment of great interest, exposed to sudden changes in public affairs, induce the bank to conform its policy to them—Mr. B. said, were too flagrant and too barefaced for comment. They were equivalent to an open declaration that a revolution was momently expected, in which Jackson's administration would be overthrown, and the friends of the bank brought into power; and, as soon as that happened, the bank would inform its branches of it; and would then conform its policy to this revolution, and relieve the country from the distress which it was then inflicting upon it. Sir, said Mr. B., addressing the Vice-President, thirty years ago, the prophetic vision of Mr. Jefferson foresaw this crisis; thirty years ago, he said that this bank was an enemy to our form of government; that, by its ramification and power, and by seizing on a critical moment in our affairs, it could upset the government! And this is what it would have done last winter, had it not been for one man! one man! one single man! with whom God had vouchsafed to favor our America in that hour of her greatest trial. That one man stood a sole obstacle to the dread career of the bank; stood for six months as the rampart which defended the country, the citadel upon which the bank artillery incessantly thundered! And what was the conduct of the Senate all this time? It was trying and condemning that man killing him off with a senatorial condemnation, removing the obstacle which stood between the bank and its prey; and, in so doing, establishing the indissoluble connection between the movement of the bank in distressing the country, and the movement of the Senate in condemning the President.

Mr. B. said that certainly no more proof was necessary, on this head, to show that the designs

of the bank were political and revolutionary, intended to put down General Jackson's administration, and to connect itself with the Senate; but he had more proof, that of a publication under the editorial head of the *National Gazette*, and which publication he assumed to say, was written by the president of the bank. It was a long article of four columns; but he would only read a paragraph. He read: "The great contest now waging in this country is between its free institutions and the violence of a vulgar despotism. The government is turned into a baneful faction, and the spirit of liberty contends against it throughout the country. On the one hand is this miserable cabal, with all the patronage of the Executive; on the other hand, the yet unbroken mind and heart of the country, with the Senate and the bank;—[in reading these words, in which the bank associated itself with the Senate, Mr. B. repeated the famous expression of Cardinal Wolsey, in associating himself with the king: *'Ego et rex meus;'*]—the House of Representatives, hitherto the intuitive champion of freedom, shaken by the intrigues of the kitchen, hesitates for a time, but cannot fail before long to break its own fetters first, and then those of the country. In that quarrel, we predict, they who administer the bank will shrink from no proper share which the country may assign to them. Personally, they must be as indifferent as any of their fellow-citizens to the recharter of the bank. But they will not suffer themselves, nor the institution intrusted to them, to be the instruments of private wrong and public outrage; nor will they omit any effort to rescue the institutions of the country from being trodden under foot by a faction of interlopers. To these profligate adventurers, whether their power is displayed in the executive or legislative department, the directors of the bank will, we are satisfied, never yield the thousandth part of an inch of their own personal rights, or their own official duties; and will continue this resistance until the country, roused to a proper sense of its dangers and its wrongs, shall drive the usurpers out of the high places they dishonor." This letter, said Mr. B., discloses, in terms which admit of no explanation or denial, the design of the bank in creating the pressure which was got up and continued during the panic session. It was to rouse the people, by dint of suffering, against the President and the House of Representatives, and to overturn them both at the ensuing elections. To do this, now stands revealed as its avowed object. The Senate and the bank were to stand together against the President and the House; and each to act its part for the same common object: the bank to scourge the people for money, and charge its own scourging upon the President; the Senate to condemn him for a violation of the laws and constitution, and to brand him as the Cæsar, Cromwell, Bonaparte—the tyrant, despot, usurper, whose head would be cut off in any kingdom of Europe for such acts as he practised here. Mr. B. said, the contemplation of the conduct of the bank, during the panic session, was revolting and incredible. It combined every thing to revolt and shock the moral sense. Oppression, falsehood, calumny, revolution, the ruin of individuals, the fabrication of false pretences, the machinations for overturning the government, the imputation of its own crimes upon the head of the President; the enriching its favorites with the spoils of the country, insolence to the House of Representatives, and its affected guardianship of the liberties of the people and the free institutions of the country; such were the prominent features of its conduct. The parallel of its enormity was not to be found on this side of Asia; an example of such remorseless atrocity was only to be seen in the conduct of the Paul Benfields and the Debi Sings who ravaged India under the name of the Marquis of Hastings. Even what had been casually and imperfectly brought to light, disclosed a system of calculated enormity which required the genius of Burke to paint. What was behind would require labors of a committee, constituted upon parliamentary principles, not to plaster, but to probe the wounds and ulcers of the bank; and such a committee he should hope to see, not now, but hereafter, not in the vacation but in the session of Congress. For he had no idea of these peripatetic and recess committees, of which the panic session had been so prolific. He wanted a committee, unquestionable in the legality of its own appointment, duly qualified in a parliamentary sense for discovering the misconduct they are set to investigate; and sitting under the wing of the authority which can punish the insolent, compel the refractory, and enforce the obedience which is due to its mandates.

6. The distress of the country occasioned by the Bank of the United States and the Senate of the United States.—This, Mr. B. said, might be an unpleasant topic to discuss in the Senate; but this Senate, for four months of the last session, and during the whole debate on the resolution to condemn the President, had resounded with the cry that the President had created all the distress; and the huge and motley mass, throughout the Union, which marched under the *oriflamme* of the bank, had every where repeated and reiterated the same cry. If there was any thing unpleasant, then, in the discussion of this topic in this place, the blame must be laid on those who, by using that argument in support of their resolution against the President, devolved upon the defenders of the President the necessity of refuting it. Mr. B. would have recourse to facts to establish his position. The first fact he would recur to was the history of a reduction of deposits, made once before in this same bank, so nearly identical in every particular with the reduction which took place under the order for the late removal of deposits, that it would require exact references to documentary evidence to put its credibility beyond the incredulity of the senses. Not only the amount from which the reduction was made, its progress, and ultimate depression, corresponded so closely as each to seem to be the history of the same transaction, but they began in the same month, descended in the same ratio, except in the instances which operate to the disadvantage of the late reduction, and, at the end of fifteen months, had reached the same point. Mr. B. spoke of the reduction of deposits which took place in the years 1818 and 1819; and would exhibit a table to compare it with the reductions under the late order for the removal of the deposits.

Here, said Mr. B., is a similar and parallel reduction of deposits in this same bank, and that at a period of real pecuniary distress to itself; a period when great frauds were discovered in its management; when a committee examined it, and reported it guilty of violating its charter; when its stock fell in a few weeks from one hundred and eighty to ninety; when propositions to repeal its charter, without the formality of a *scire facias*, were discussed in Congress; when nearly all presses, and nearly all voices, condemned it; and when a real necessity compelled it to reduce its discounts and loans with more rapidity, and to a far greater comparative extent, than that which has attended the late reduction. Yet, what was the state of the country? Distressed, to be sure, but no panic; no convulsion in the community; no cry of revolution. And why this difference? If mere reduction of deposits was to be attended with these effects at one time, why not at the other? Sir, said Mr. B., addressing the Vice-President, the reason is plain and obvious. The bank was unconnected with politics, in 1819; it had no desire, at that time, to govern the elections, and to overturn an administration; it had no political confederates; it had no president of the bank then to make war upon the President of the United States, and to stimulate and aid a great political party in crushing the President, who would not sign a new charter, and in crushing the House of Representatives which stood by him. There was no resolution then to condemn the President for a violation of the laws and the constitution. And it was this fatal resolution, which we now propose to expunge, which did the principal part of the mischief. That resolution was the root of the evil; the signal for panic meetings, panic memorials, panic deputations, panic speeches, and panic jubilees. That resolution, exhibited in the Senate chamber, was the scarlet mantle of the consul, hung out from his tent; it was the signal for battle. That resolution, and the alarm speeches which attended it, was the tocsin which started a continent from its repose. And the condemnation which followed it, and which left this chamber just in time to reach the New-York, Virginia, and Connecticut elections, completed the effect upon the public mind, and upon the politics and commerce of the country, which the measures of the bank had been co-operating for three months to produce. And here he must express his especial and eternal wonder how all these movements of bank and Senate co-operating together, if not by arrangement, at least by a most miraculous system of accidents, to endanger the political rights, and to injure the pecuniary interests of the people of the United States, could so far escape the observation of the investigating committee of the Senate, as not to draw from them the expression of one solitary opinion, the suggestion of one single idea, the application of one single remark, to the prejudice of the bank. Surely they ought

to have touched these scenes with something more than a few meagre, stinted, and starved lines of faint allusion to the "new measures understood to be in contemplation;" those new measures which were so falsely, so wickedly fabricated to cover the preconcerted and premeditated plot to upset the government by stimulating the people to revolution, through the combined operations of the pecuniary pressure and political alarms.

The table itself was entitled to the gravest recollection, not only for the comparison which it suggested, but the fact of showing the actual progress and history of the removal of the deposits, and blasting the whole story of the President's hostility to the bank. From this table it is seen that the deposits, in point of fact, have never been all taken from the bank; that the removal, so far as it went, was gradual and gentle; that an average of three millions has always been there; that nearly four millions was there on the 1st day of January last; and before these facts, the fabricated story of the President's hostility to the bank, his vindictiveness, and violent determination to prostrate, destroy, and ruin the institution, must fall back upon its authors, and recoil upon the heads of the inventors and propagators of such a groundless imputation.

Mr. B. could give another fact to prove that it was the Senate and the bank, and the Senate more than the bank, which produced the distress during the last winter. It was this: that although the curtailments of the bank were much larger both before and after the session of Congress, yet there was no distress in the country, except during the session, and while the alarm speeches were in a course of delivery on this floor. Thus, the curtailment from the 1st of August to the 1st of October, was $4,066,000; from the 1st of October to the meeting of Congress in December, the curtailment was $5,641,000—making $9,707,000 in four months, and no distress in the country. During the session of Congress (seven months) there was a curtailment of $3,428,138; and during this time the distress raged. From the rise of Congress (last of June) to the 1st of November, a period of four months, the curtailment was $5,270,771, and the word distress was not heard in the country. Why? Because there were no panic speeches. Congress had adjourned; and the bank, being left to its own resources, could only injure individuals, but could not alarm and convulse the community.

Mr. B. would finish this view of the conduct of the bank in creating a wanton pressure, by giving two instances; one was the case of the deposit bank in this city; the other was the case of a senator opposed to the bank. He said that the branch bank at this place had made a steady run upon the Metropolis Bank from the beginning to the ending of the panic session. The amount of specie which it had taken was $605,000: evidently for the purpose of blowing up the pet bank in this district; and during all that time the branch refused to receive the notes, or branch drafts, of any other branch, or the notes of the mother bank; or checks upon any city north of Baltimore. On the pet bank in Baltimore it would take checks, because the design was to blow up that also. Here, said Mr. B., was a clear and flagrant case of pressure for specie for the mere purpose of mischief, and of adding the Metropolis Bank to the list of those who stopped payment at that time. And here Mr. B. felt himself bound to pay his respects to the Committee on Finance, that went to examine the bank last summer. That committee, at pages 16 and 22, of their report, brought forward an unfounded charge against the administration for making runs upon the branches of the United States Bank, to break them; while it had been silent with respect to a well-founded instance of the same nature from the Bank of the United States towards the deposit bank in this district. Their language is: "The administrative department of the government had manifested a spirit of decided hostility to the bank. It had no reason to expect any indulgence or clemency at its hands; and in this opinion, if entertained by the directors, about which there can be but little question, subsequent events very soon proved they were not mistaken. The President's address to his cabinet; the tone assumed by the Secretary (Mr. Taney) in his official communication to Congress, and the developments subsequently made by Mr. Duane in his address to the public, all confirm the correctness of this anticipation. The measure which the bank had cause to fear was the accumulation by government of large masses of notes, and the existence thereby of heavy demands against its offices (p. 16).

"In persevering in its policy of redeeming its notes whenever presented, and thereby continuing them as a universal medium of exchange, in opposition to complaints on that head from some of the branches (see copies of correspondence), the security of the institution and the good of the country were alike promoted. The accumulation of the notes of any one branch for the purpose of a run upon it by any agent of the government, when specie might be obtained at the very places of collection, in exchange for the notes of the most distant branches, would have been odious in the eyes of the public, and ascribed to no other feeling than a feeling of vindictiveness" (p. 22). Upon these extracts, Mr. B. said, it was clear that the committee had been so unfortunate as to commit a series of mistakes, and every mistake to the advantage of the bank, and to the prejudice of the government and the country. First, the government is charged, for the charge is clear, though slightly veiled, that the President of the United States in his vindictiveness against the bank, would cause the notes of the branches to be accumulated, and pressed upon them to break them. Next, the committee omit to notice the very thing actually done, in our very presence here, by the Bank of the United States against a deposit bank, which it charges without foundation upon the President. Then it credits the bank with the honor of paying its notes every where, and exchanging the notes of the most distant branches for specie, when the case of the Metropolis Bank, here in our presence, for the whole period of the panic session, proves the contrary; and when we have a printed document, positive testimony from many banks, and brokers, testifying that the branches in Baltimore and New-York, during the fall of 1833, positively refused to redeem the notes of other branches, or to accept them in exchange for the notes of the local banks, though taken in payment of revenue; and that, in consequence, the notes of distant branches fell below par, and were sold at a discount, or lent for short periods without interest, on condition of getting specie for them; and that this continued till Mr. Taney coerced the bank, by means of transfer drafts, to cause the notes of her branches to be received and honored at other branches as usual. In all this, Mr. B. said, the report of the committee was most unfortunate; and showed the necessity for a new committee to examine the institution; a committee constituted upon parliamentary principles—a majority in favor of inquiry—like that of the Post Office. The creation of such a committee, Mr. B. said, was the more necessary, as one of the main guards intended by the charter to be placed over the bank was not there during the period of the pressure and panic operations; he alluded to the government directors; the history of whose rejection, after such long delays in the Senate to act on their nomination, is known to the whole country.

The next instance of wanton pressure which Mr. B. would mention, was the case of an individual, then a member of the Senate from Pennsylvania, now minister to St. Petersburg (Mr. Wilkins). That gentleman had informed him (Mr. B.), towards the close of the last session, that the bank had caused a *scire facias* to be served in his house, to the alarm and distress of his wife, to revive a judgment against him, whilst he was here opposing the bank.

[Mr. Ewing, of Ohio, here rose, and wished to know of Mr. B. whether it was the Bank of the United States that had issued this *scire facias* against Mr. Wilkins.]

Mr. B. was very certain that it was. He recollected not only the information, but the time and the place when and where it was given; it was the last days of the last session, and at the window beyond that door (pointing to the door in the corner behind him); and he added, if there is any question to be raised, it can be settled without sending to Russia; the *scire facias*, if issued, will be on record in Pittsburg. Mr. B. then said, the cause of this conduct to Mr. Wilkins can be understood when it is recollected that he had denied on this floor the existence of the great distress which had been depicted at Pittsburg; and the necessity that the bank was under to push him at that time can be appreciated by seeing that two and fifty members of Congress, as reported by the Finance Committee, had received "accommodations" from the bank and its branches in the same year that a senator, and a citizen of Pennsylvania, opposed to the bank, was thus proceeded against.*

* At pages 37 and 38 of the report, the Finance Committee fully acquits the bank of all injurious discriminations between borrowers and applicants, of different politics.

Mr. B. returned to the resolution which it was proposed to expunge. He said it ought to go. It was the root of the evil, the father of the mischief, the source of the injury, the box of Pandora, which had filled the land with calamity and consternation for six long months. It was that resolution, far more than the conduct of the bank, which raised the panic, sunk the price of property, crushed many merchants, impressed the country with the terror of an impending revolution, and frightened so many good people out of the rational exercise of their elective franchise at the spring elections. All these evils have now passed away. The panic has subsided; the price of produce and property has recovered from its depression, and risen beyond its former bounds. The country is tranquil, prosperous, and happy. The States which had been frightened from their propriety at the spring elections, have regained their self-command. Now, with the total vanishing of its effects, let the cause vanish also. Let this resolution for the condemnation of President Jackson be expunged from the journals of the Senate! Let it be effaced, erased, blotted out, obliterated from the face of that page on which it should never have been written! Would to God it could be expunged from the page of all history, and from the memory of all mankind. Would that, so far as it is concerned, the minds of the whole existing generation should be dipped in the fabulous and oblivious waters of the river Lethe. But these wishes are vain. The resolution must survive and live. History will record it; memory will retain it; tradition will hand it down. In the very act of expurgation it lives; for what is taken from one page is placed on another. All atonement for the unfortunate calamitous act of the Senate is imperfect and inadequate. Expunge, if we can, still the only effect will be to express our solemn convictions, by that obliteration, that such a resolution ought never to have soiled the pages of our journal. This is all that we can do; and this much we are bound to do, by every obligation of justice to the President, whose name has been attainted; by every consideration of duty to the country, whose voice demands this reparation; by our regard to the constitution, which has been rampled under foot; by respect to the House of Representatives, whose function has been usurped; by self-respect, which requires the Senate to vindicate its justice, to correct its errors, and re-establish its high name for equity, dignity, and moderation. To err is human; not to err is divine; to correct error is the work of supereminent and also superhuman moral excellence, and this exalted work now remains for the Senate to perform.

CHAPTER CXXIV.

EXPUNGING RESOLUTION: REJECTED, AND RENEWED.

The speech which had been delivered by Mr Benton, was intended for effect upon the country—to influence the forthcoming elections—and not with any view to act upon the Senate, still consisting of the same members who had passed the condemnatory resolution, and not expected to condemn their own act. The expunging resolution was laid upon the table, without any intention to move it again during the present session; but, on the last day of the session, when the Senate was crowded with business, and when there was hardly time to finish up the indispensable legislation, the motion was called up, and by one of its opponents—Mr. Clayton, of Delaware—the author of the motion being under the necessity to vote for the taking up, though expecting no good from it. The moment it was taken up, Mr. White, of Tennessee, moved to strike out the word "expunge," and insert "rescind, reverse, and make null and void." This motion astonished Mr. Benton. Mr. White, besides opposing all the proceedings against President Jackson, had been his personal and political friend from early youth—for the more than forty years which each of them had resided in Tennessee. He expected his aid, and felt the danger of such a defection. Mr. Benton defended his word as being strictly parliamentary, and the only one which was proper to be used when an unauthorized act is to be condemned—all other phrases admitting the legality of the act which is to be invalidated. Mr. White justified his motion on the ground that an expurgation of the journal would be its obliteration, which he deemed inconsistent with the constitutional injunction to "keep" a journal—the word "keep" being

taken in its primary sense of "holding," "preserving," instead of "writing," a journal: but the mover of the resolution soon saw that Mr. White was not the only one of his friends who had yielded at that point—that others had given way—and, came about him importuning him to give up the obnoxious word. Seeing himself almost deserted, he yielded a mortifying and reluctant assent; and voted with others of his friends to emasculate his own motion—to reduce it from its high tone of reprobation, to the legal formula which applied to the reversal of a mere error in a legal proceeding. The moment the vote was taken, Mr. Webster rose and exulted in the victory over the hated phrase. He proclaimed the accomplishment of every thing that he desired in relation to the expunging resolution: the word was itself expunged; and he went on to triumph in the victory which had been achieved, saying:

"That which made this resolution, which we have now amended, particularly offensive, was this: it proposed to expunge our journal. It called on us to violate, to obliterate, to erase, our own records. It was calculated to fix a particular stigma, a peculiar mark of reproach or disgrace, on the resolution of March last. It was designed to distinguish it, and reprobate it, in some especial manner. Now, sir, all this most happily, is completely defeated by the almost unanimous vote of the Senate which has just now been taken. The Senate has declared, in the most emphatic manner, that its journal shall not be tampered with. I rejoice most heartily, sir, in this descisive result. It is now settled, by authority not likely to be shaken, that our records are sacred. Men may change, opinions may change, power may change, but, thanks to the firmness of the Senate, the records of this body do not change. No instructions from without, no dictates from principalities or powers, nothing—nothing can be allowed to induce the Senate to falsify its own records, to disgrace its own proceedings, or violate the rights of its members. For one, sir, I feel that we have fully and completely accomplished all that could be desired in relation to this matter. The attempt to induce the Senate to expunge its journal has failed, signally and effectually failed. The record remains, neither blurred, blotted, nor disgraced."

And then, to secure the victory which he had gained, Mr. Webster immediately moved to lay the amended resolution on the table, with the peremptory declaration that he would not withdraw his motion for friend or foe. The resolve was laid upon the table by a vote of 27 to 20. The exulting speech of Mr. Webster restored me to my courage—made a man of me again; and the moment the vote was over, I rose and submitted the original resolution over again, with the detested word in it—to stand for the second week of the next session—with the peremptory declaration that I would never yield it again to the solicitations of friend or foe.

CHAPTER CXXV.

BRANCH MINTS AT NEW ORLEANS, AND IN THE GOLD REGIONS OF GEORGIA AND NORTH CAROLINA.

The bill had been reported upon the proposition of Mr. Waggaman, senator from Louisiana, and was earnestly and perseveringly opposed by Mr. Clay. He moved its indefinite postponement, and contended that the mint at Philadelphia was fully competent to do all the coinage which the country required. He denied the correctness of the argument, that the mint at New Orleans was necessary to prevent the transportation of the bullion to Philadelphia. It would find its way to the great commercial marts of the country whether coined or not. He considered it unwise and injudicious to establish these branches. He supposed it would gratify the pride of the States of North Carolina and Georgia to have them there; but when the objections to the measure were so strong, he could not consent to yield his opposition to it. He moved the indefinite postponement of the bill, and asked the yeas and nays on his motion; which were ordered.—Mr. Mangum regretted the opposition of the senator from Kentucky (Mr. Clay), and thought it necessary to multiply the number of American coins, and bring the mints to the places of production. There was an actual loss of near four per cent. in transporting the gold bullion from the Georgia and North Carolina mines to Philadelphia for coinage. With respect to gratifying the pride of the Southern States, it was a misconception; for those States had no pride to gratify. He saw no evil in the multiplication of these mints. It was well shown by the senator from Missouri, when the bill was up before, that, in the commentaries on the constitution it

was understood that branches might be multiplied.—Mr. Frelinghuysen thought that the object of having a mint was mistaken. The mint was established for the accommodation of the government, and he thought the present one sufficient. Why put an additional burden upon the government because the people in the South have been so fortunate as to find gold? —Mr. Bedford Brown of North Carolina, said the senator from New Jersey, asked why we apply to Congress to relieve us from the burden of transporting our bullion to be coined, when the manufacturers of the North did not ask to be paid for transporting their material. He said it was true the manufacturers had not asked for this transportation assistance, but they asked for what was much more valuable, and got it—protection. The people of the South ask no protection; they rely on their own exertions; they ask but a simple act of justice—for their rights, under the power granted by the States to Congress to regulate the value of coin, and to make the coin itself. It has the exclusive privilege of Congress, and he wished to see it exercised in the spirit in which it was granted; and which was to make the coinage generel for the benefit of all the sections of the Union, and not local to one section. The remark of the gentlemen is founded in mistake. What are the facts? Can the gold bullion of North Carolina be circulated as currency? We all know it cannot; it is only used as bullion, and carried to Philadelphia at a great loss. Another reason for the passage of the bill, and one which Mr. Brown hoped would not be less regarded by senators on the other side of the House, was that the measure would be auxiliary to the restoration of the metallic currency, and bring the government back to that currency which was the only one contemplated by the constitution.

Mr. Benton took the high ground of constitutional right to the establishment of these branches, and as many more as the interests of the States required. He referred to the Federalist, No. 44, written by Mr. Madison, that in surrendering the coining power to the federal government, the States did not surrender their right to have local mints. He read the passage from the number which he mentioned, and which was the exposition of the clause in the constitution relative to the coining power. It was express, and clear in the assertion, that the States were not to be put to the expense and trouble of sending their bullion and foreign coins to a central mint to be recoined; but that, as many local mints would be established under the authority of the general government as should be necessary. Upon this exposition of the meaning of the constitution, Mr. B. said, the States accepted the constitution; and it would be a fraud on them now to deny branches where they were needed. He referred to the gold mines in North Carolina, and the delay with which that State accepted the constitution, and inquired whether she would have accepted it at all, without an amendment to secure her rights, if she could have foreseen the great discoveries of gold within her limits, and the present opposition to granting her a local mint. That State, through her legislature, had applied for a branch of the mint years ago, and all that was said in her favor was equally applicable to Georgia. Mr. B. said, the reasons in the Federalist for branch mints were infinitely stronger now than when Mr. Madison wrote in 1788. Then, the Southern gold region was unknown, and the acquisition of Louisiana not dreamed of. New Orleans, and the South, now require branch mints, and claim the execution of the constitution as expounded by Mr. Madison.

Mr. B. claimed the right to the establishment of these branches as an act of justice to the people of the South and the West. Philadelphia could coin, but not diffuse the coin among them. Money was attracted to Philadelphia from the South and West, but not returned back again to those regions. Local mints alone could supply them. France had ten branch mints; Mexico had eight; the United States not one. The establishment of branches was indispensable to the diffusion of a hard-money currency, especially gold; and every friend to that currency should promote the establishment of branches.

Mr. B. said, there were six hundred machines at work coining paper money—he alluded to the six hundred banks in the United States; and only one machine at work coining gold and silver He believed there ought to be five or six branch mints in the United States; that is, two or three more than provided for in this bill; one at Charleston, South Carolina, one at Norfolk or Richmond, Virginia, and one at New-York or Boston. The United States Bank had twenty-

four branches; give the United States Mint five or six branches; and the name of that bank would cease to be urged upon us. Nobody would want her paper when they could get gold.

Mr. B. scouted the idea of expense on such an object as this. The expense was but inconsiderable in itself, and was nothing compared to its object. For the object was to supply the country with a safe currency,—with a constitutional currency; and currency was a thing which concerned every citizen. It was a point at which the action of government reached every human being, and bore directly upon his property, upon his labor, and upon his daily bread. The States had a good currency when this federal government was formed; it was gold and silver for common use, and large bank notes for large operations. Now the whole land is infested with a vile currency of small paper: and every citizen was more or less cheated. He himself had but two bank notes in the world, and they were both counterfeits, on the United States Bank, with St. Andrew's cross drawn through their faces. He used nothing but gold and silver since the gold bill passed.

In reply to Mr. Frelinghuysen, who asked where was the gold currency? He would answer, far the greatest part of it was in the vaults of the Bank of the United States, and its branches, to be sold or shipped to Europe; or at all events, to be kept out of circulation, to enable the friends of the bank to ask, where is the gold currency? and then call the gold bill a humbug. But he would tell the gentleman where a part of the gold was; it was in the Metropolis Bank in this city, and subject to his check to the full amount of his pay and mileage. Yes, said Mr. B., now, for the first time, Congress is paid in gold, and it is every member's own fault if he does not draw it and use it.

Mr. B. said this question concerned the South and West, and he would hope to see the representatives from these two sections united in support of the bill. He saw with pleasure, that several gentlemen from the north of the Potomac, and from New England were disposed to support it. Their help was most acceptable on a subject so near and so dear to the South and West. Every inhabitant of the South and West was personally interested in the success of the bill. From New Orleans, the new coin would ascend the Mississippi River, scatter itself all along its banks, fill all its towns, cities, and villages branch off into the interior of the country, ascend all the tributary streams, and replenish and refresh the whole face of the land. From the Southern mints, the new gold would come into the West, and especially into Kentucky Ohio, and Tennessee, by the stock drivers, being to them a safe and easy remittance, and to the country a noble accession to their currency; enabling them quickly to dispense with their small notes.

It was asked, Mr. B. said, what loss has the Western People now sustained for want of gold? He would answer that the whole West was full of counterfeit paper; that counterfeit paper formed a large part of the actual circulation, especially of the United States branch drafts; that sooner or later all these counterfeits must stop in somebody's hands; and they would be sure to stop in the hands of those who were least able to bear the loss. Every trader down the Mississippi, Mr. B. said, was more or less imposed upon with counterfeit paper; some lost nearly their whole cargoes. Now if there was a branch mint in New Orleans every one would get new gold. He could get it direct from the mint; or have his gold examined there before he received it. Mr. B. said that one great object of establishing branch mints was to prevent and detect counterfeiting. Such establishments would detect every counterfeit piece, and enable every body to have recourse to a prompt and safe standard for ascertaining what was genuine and what not. This was a great reason for the ten branches in France.

Mr. B. was against the paper system. He was against all small notes. He was against all paper currency for common use; and being against it he was in favor of the measures that would put down small paper and put up gold and silver. The branching of the mint was one of the indispensable measures for accomplishing that object, and therefore he was for it. He was in favor of practical measures. Speeches alone would not do. A gentleman might make a fine speech in favor of hard money; but unless he gave votes in favor of measures to accomplish it, the speech would be inoperative. Mr. B. held the French currency to be the best in the world, where there was no bank note under 500 francs (near $100), and where, in consequence, there was a gold and silver circulation of upwards of five

hundred millions of dollars; a currency which had lately stood two revolutions and one conquest, without the least fluctuation in its quantity or value.

New Orleans, he said, occupied the most felicitous point in America for a mint. It was at the point of reception and diffusion. The specie of Mexico came there; and when there, it ascended the river into the whole West. It was the market city—the emporium of the Great Valley; and from that point every exporter of produce could receive his supply and bring it home. Mr. B. reiterated that this was a question of currency; of hard money against paper; of gold against United States Bank notes. It was a struggle with the paper system. He said the gold bill was one step; the branching the mint would be the second step; the suppression of all notes under twenty dollars would be the third step towards getting a gold and silver currency. The States could do much towards putting down small notes; the federal government could put them down, by putting the banks which issued them under the *ban;* or, what was better, and best of all, returning to the act of 1789, which enacted that the revenues of the federal government should be received in gold and silver coin only.

The question was then put on Mr. Clay's motion for indefinite postponement—and failed—16 yeas to 27 nays. Further strenuous exertion was made to defeat the bill. Mr. Clay moved to postpone it to the ensuing week—which, being near the end of the session, would be a delay which might be fatal to it; but it came near passing—20 yeas to 22 nays. A motion was made by Mr. Clay to recommit the bill to the Committee of Finance—a motion equivalent to its abandonment for the session, which failed. Mr. Calhoun gave the bill an earnest support. He said it was a question of magnitude, and of vital importance to the South, and deserved the most serious consideration. Yet, he was sorry to say, he had seen more persevering opposition made to it than to any other measure for the last two years. It was a sectional question, but one intended to extend equal benefits to all the States—Mr. Clay said, if there had been resistance on one side, there had also been a most unparalleled, and he must say, unbounded perseverance on the other. He would repeat that in whatever light he had received the proposed measure, he had been unable to come to any other conclusion than this, that it was, in his humble judgment, delusive, uncalled for, calculated to deceive the people—to hold out ideas which would never be realized;—and as utterly unworthy of the consideration of the Senate.—Mr. Calhoun was astonished at the warmth of Mr. Clay on this question—a question as much sectional in one point of view, as a measure could be, but national in another. Let senators say what they would, this government was bound, in his opinion, to establish the mints which had been asked for. Finally, the question was taken, and carried—24 to 19—the yeas being: Messrs. Benton, Bibb, Brown, Calhoun, Cuthbert, Hendricks, Kane, King of Alabama, King of Georgia, Leigh, Linn, Mangum, Morris, Porter, Preston, Robinson, Ruggles, Shepley, Tallmadge, Tyler, Waggaman, Webster, White, Wright. The nays were: Messrs. Bell of New Hampshire, Black of Mississippi, Buchanan, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Isaac Hill, Knight, McKean, Naudain, Robbins, Silsbee, Smith, Southard, Swift, Tipton, Tomlinson. The bill was immediately carried to the House of Representatives; and there being a large majority there in favor of the hard money policy of the administration, it was taken up and acted upon, although so near the end of the session; and easily passed.

CHAPTER CXXVI.

REGULATION DEPOSIT BILL.

The President had recommended to Congress the passage of an act to regulate the custody of the public moneys in the local banks, intrusted with their keeping. It was a renewal of the same recommendation made at the time of their removal, and in conformity to which the House of Representatives had passed the bill which had been defeated in the Senate. The same bill was sent up to the Senate again, and passed by a large majority: twenty-eight to twelve. The yeas were: Messrs. Benton, Black of Mississippi, Calhoun, Clayton of Delaware, Cuthbert of Georgia, Ewing of Ohio, Frelinghuysen, Golds-

borough, Kent, Knight, Leigh, Linn, McKean, Mangum, Moore, Alexander Porter, Prentiss, Preston, Robbins, Robinson, Smith, Southard, Swift, Tomlinson, Tyler, Waggaman, Webster, Wright. The nays were: Messrs. Bibb, Brown, Buchanan, Hendricks, Hill, Kane, King of Alabama, Morris of Ohio, Poindexter, Ruggles, Shepley, Tallmadge. And thus, the complaint ceased which had so long prevailed against the President, on the alleged illegality of the State bank custody of the public moneys. These banks were taken as a necessity, and as a half-way house between the Bank of the United States and an Independent treasury. After a brief sojourn in the intermediate abode, they passed on to the Independent treasury—there, it is hoped, to remain for ever.

CHAPTER CXXVII.

DEFEAT OF THE DEFENCE APPROPRIATION, AND LOSS OF THE FORTIFICATION BILL.

The President in his annual message at the commencement had communicated to Congress the state of our relations with France, and especially the continued failure to pay the indemnities stipulated by the treaty of 1831; and had recommended to Congress measures of reprisal against the commerce of France. The recommendation, in the House of Representatives, was referred to the committee of foreign relations, which through their chairman, Mr. Cambreling, made a report adverse to immediate resort to reprisals, and recommending contingent preparation to meet any emergency which should grow out of a continued refusal on the part of France to comply with her treaty, and make the stipulated payment. In conformity with this last recommendation, and at the suggestion of Mr. John Quincy Adams, it was resolved unanimously upon yeas and nays, or rather upon yeas, their being no nays, and 212 members voting—"That in the opinion of this House, the treaty of the 4th of July 1831 with France be maintained, and its execution insisted upon:" and, with the like unanimity it was resolved—"That preparations ought to be made to meet any emergency growing out of our relations with France." These two resolutions showed the temper of the House, and that it intended to vindicate the rights of our citizens, if necessary at the expense of war. Accordingly an appropriation of three millions of dollars was inserted by the House in the general fortification bill to enable the President to make such military and naval preparations during the recess of Congress as the state of our relations with France might require. This appropriation was zealously voted by the House: in the Senate it met with no favor; and was rejected. The House insisted on its appropriation: the Senate "adhered" to its vote: and that brought the disagreement to a committee of conference, proposed by the House. In the mean time Congress was in the expiring moments of its session; and eventually the whole appropriation for contingent preparation, and the whole fortification bill, was lost by the termination of the Congress. It was a most serious loss; and it became a question which House was responsible for such a misfortune—regrettable at all times, but particularly so in the face of our relations with France. The starting point in the road which led to this loss was the motion made by Mr. Webster to "adhere"—a harsh motion, and more calculated to estrange than to unite the two Houses. Mr. King, of Alabama, immediately took up the motion in that sense; and said:

"He very much regretted that the senator from Massachusetts should have made such a motion; it had seldom or never been resorted to until other and more gentle means had failed to produce a unity of action between the two Houses. At this stage of the proceeding it would be considered (and justly) harsh in its character; and, he had no doubt, if sanctioned by the Senate, would greatly exasperate the other House, and probably endanger the passage of the bill altogether. Are gentlemen, said Mr. Mr. K., prepared for this? Will they, at this particular juncture, in the present condition of things, take upon themselves such a fearful responsibility as the rejection of this bill might involve? For himself, if your forts are to be left unarmed, your ships unrepaired and out of commission, and your whole sea-coast exposed without defences of any kind, the responsibility should not rest upon his shoulders. It is as well, said Mr. K., to speak plainly on this subject. Our position with regard to France was known to all who heard him to be of such a character as would not, in his opinion, justify prudent men, men who look to the preservation of the rights and the honor of the nation, in withholding the means, the most ample means, to maintain those rights and preserve unimpaired that honor

"Mr. K. said, while he was free to confess that the proposed appropriation was not in its terms altogether as specific as he could have wished it, he could not view it in the light which had, or seemed to have, so much alarmed the senator from Massachusetts, and others who had spoken on the subject. We are told, said Mr. K., that the adoption of the amendment made by the House will prostrate the fortress of the constitution and bury under its ruins the liberties of the people. He had too long been accustomed to the course of debate here, particularly in times of high party excitement, to pay much attention to bold assertion or violent denunciation. In what, he asked, does it violate the constitution? Does it give to the President the power of declaring war? You have been told, and told truly, by my friend from Pennsylvania [Mr. Buchanan], that this power alone belongs to Congress; nor does this bill in the slightest degree impair it. Does it authorize the raising of armies? No, not one man can be enlisted beyond the number required to fill up the ranks of your little army; and whether you pass this amendment or not, that power is already possessed under existing laws. Is it, said Mr. K., even unprecedented and unsual? A little attention to the history of our government must satisfy all who heard him, that it is neither the one nor the other.

"During the whole period of the administrations of General Washington and the elder Adams, all appropriations were general, applying a gross sum for the expenditure of the different departments of the government, under the direction of the President; and it was not till Mr. Jefferson came into office, that, at his recommendation, specific appropriations were adopted. Was the constitution violated, broken down, and destroyed, under the administration of the father of his country? Or did the fortress to which the senator from Massachusetts, on this occasion, clings so fondly, tumble into ruin, when millions were placed in the hands of Mr. Jefferson himself, to be disposed of for a designated object, but, in every thing else, subject to his unlimited discretion? No, said Mr. K., our liberties remained unimpaired; and, he trusted in God, would so remain for centuries yet to come. He would not urge his confidence in the distinguished individual at the head of the government as a reason why this amendment should pass; he was in favor of limiting executive discretion as far as practicable; but circumstances may present themselves, causes may exist, which would place it out of the power of Congress promptly to meet the emergency. To whom, then, should they look? Surely to the head of the government—to the man selected by the people to guard their rights and protect their interests. He put it to senators to say whether, in a possible contingency, which all would understand, our forts should not be armed, or ships put in commission? None will venture to gainsay it. Yet the extent to which such armament should be carried must, from the very necessity of the case, be left to the sound discretion of the President. From the position he occupies, no one can be so competent to form a correct judgment, and he could not, if he would, apply the money to other objects than the defences of the country. Mr. K. said he would not, at this last moment of the session, when time was so very precious, further detain the Senate than to express his deep apprehension, his alarm, lest this most important bill should be lost by this conflict between the two Houses. He would beg of senators to reflect on the disastrous consequences which might ensue. He would again entreat the senator from Massachusetts to withdraw his motion, and ask a conference, and thus leave some reasonable ground for hope of ultimate agreement on this most important subject."

The motion was persisted in, and the "adherence" carried by a vote of twenty-nine to seventeen. The yeas and nays were:

YEAS.—Messrs. Bell, Bibb, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Hendricks, Kent, Knight, Leigh, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Swift, Tomlinson, Tyler, Waggaman, Webster, White.—29.

NAYS.—Messrs. Benton, Brown, Buchanan, Cuthbert, Grundy, Hill, Kane, King of Alabama, King of Georgia, Linn, McKean, Ruggles, Robinson, Shepley, Tallmadge, Tipton, Wright.—17.

Upon being notified of this vote, the House took the conciliatory step of "insisting;" and asked a "conference." The Senate agreed to the request—appointed a committee on its part, which was met by another on the part of the House, which could not agree about the three millions; and while engaged in these attempts at concord, the existence of the Congress terminated. It was after midnight; the morning of the fourth of March had commenced; many members said their power was at an end—others that it would continue till twelve o'clock, noon; for it was that hour, on the 3d of March, 1789, that the first Congress commenced its existence, and that day should only be counted half, and the half of the next day taken to make out two complete years for each Congress. To this it was answered that, in law, there are no fractions of a day; that the whole day counted in a legal transaction: in the birth of a measure or of a man. The first day that the first Congress sat was the day of its birth, without looking to the hour at which it formed a quorum; the day a man was born was the day of his birth, and he counted

from the beginning of the day, and the whole day, and not from the hour and minute at which he entered the world—a rule which would rob all the afternoon-born children of more or less of the day on which they were born, and postpone their majority until the day after their birthday. While these disquisitions were going on, many members were going off; and the Senate hearing nothing from the House, dispatched a message to it, on the motion of Mr. Webster, "respectfully to remind it" of the disagreement on the fortification bill; on receiving which message, Mr. Cambreleng, chairman of conference, on the part of the House, stood up and said:

"That the committee of conference of the two Houses had met, and had concurred in an amendment which was very unsatisfactory to him. It proposed an unconditional appropriation of three hundred thousand dollars for arming the fortifications, and five hundred thousand dollars for repairs of and equipping our vessels of war—an amount totally inadequate, if it should be required, and more than was necessary, if it should not be. When he came into the House from the conference, they were calling the ayes and noes on the resolution to pay the compensation due the gentleman from Kentucky (Mr. Letcher). He voted on that resolution, but there was no quorum voting. On a subsequent proposition to adjourn, the ayes and noes were called, and again there was no quorum voting. Under such circumstances, and at two o'clock in the morning, he did not feel authorized to present to the House an appropriation of eight hundred thousand dollars. He regretted the loss, not only of the appropriation for the defence of the country, but of the whole fortification bill; but let the responsibility fall where it ought—on the Senate of the United States. The House had discharged its duty to the country. It had sent the fortification bill to the Senate, with an additional appropriation, entirely for the defence of the country. The Senate had rejected that appropriation, without even deigning to propose any amendment whatever, either in form or amount. The House sent it a second time; and a second time no amendment was proposed, but the reverse; the Senate adhered, without condescending to ask even a conference. Had that body asked a conference, in the first instance, some provision would have been made for defence, and the fortification bill would have been saved before the hour arrived which terminated the existence of the present House of Representatives. As it was, the committees did not concur till this House had ceased to exist— the ayes and noes had been twice taken without a quorum—the bill was evidently lost, and the Senate must take the responsibility of leaving the country defenceless. He could not feel authorized to report the bill to the House, situated as it was, and at this hour in the morning; but if any other member of the committee of conference proposed to do it, he should make no objection, though he believed such a proposition utterly ineffectual at this hour; for no member could, at this hour in the morning, be compelled to vote."

Many members said the time was out, and that there had been no quorum for two hours. A count was had, and a quorum not found. The members were requested to pass through tellers, and did so: only eight-two present. Mr. John Y. Mason informed the House that the Senate had adjourned; then the House did the same—making the adjournment in due form, after a vote of thanks to the speaker, and hearing his parting address in return.

CHAPTER CXXVIII.

DISTRIBUTION OF REVENUE.

PROPOSITIONS for distributing the public land revenue among the States, had become common, to be succeeded by others to distribute the lands themselves, and finally the Custom House revenue, as well as that of the lands. The progress of distribution was natural and inevitable in that direction, when once begun. Mr. Calhoun and his friends had opposed these proposed distributions as unconstitutional, as well as demoralizing; but after his junction with Mr. Clay, he began to favor them; but still with the salvo of an amendment to the constitution. With this view, in the latter part of the session of 1835, he moved a resolution of inquiry into the extent of executive patronage, the increase of public expenditure, and the increase of the number of persons employed or fed by the federal government; and he asked for a select committee of six to report upon his resolution. Both motions were granted by the Senate; and, according to parliamentary law, and the principles of fair legislation (which always accord a committee favorable to the object proposed), the members of the committee were appointed upon the selection of the six which he wished. They were: Messrs. Webster, Southard, Bibb, King of Georgia, and Benton—which, with himself, would make six. Mr. Webster declined, and Mr. Poindexter was appointed in his place; Mr. South-

ard did not act; and the committee, consisting of five, stood, politically, three against the administration—two for it; and was thus a frustration of Mr. Calhoun's plan of having an impartial committee, taken equally from the three political parties. He had proposed the committee upon the basis of three political parties in the Senate, desiring to have two members from each party; giving as a reason for that desire, that he wished to go into the examination of the important inquiry proposed, with a committee free from all prejudice, and calculated to give it an impartial consideration. This division into three parties was not to the taste of all the members; and hence the refusal of some to serve upon it. It was the first time that the existence of three parties was proposed to be made the basis of senatorial action, and did not succeed. The actual committee classed democratically, but with the majority opposed to the administration.

At the first meeting a sub-committee of three was formed—Mr. Calhoun of course at its head—to draw up a report for the consideration of the full committee: and of this sub-committee a majority was against the administration. Very soon the committee was assembled to hear the report read. I was surprised at it—both at the quickness of the preparation and the character of the paper. It was an elaborate, ingenious and plausible attack upon the administration, accusing it of having doubled the expenses of the government—of having doubled the number of persons employed or supported by it—of holding the public moneys in illegal custody—of exercising a patronage tending to corruption—the whole the result of an over full treasury, which there was no way to deplete but by a distribution of the surplus revenue among the States; for which purpose an amendment of the constitution would be necessary; and was proposed. Mr. Benton heard the reading in silence; and when finished declared his dissent to it: said he should make no minority report—a kind of reports which he always disliked; but when read in the Senate he should rise in his place and oppose it. Mr. King, of Georgia, sided with Mr. Benton; and thus the report went in. Mr. Calhoun read it himself at the secretary's table, and moved its printing. Mr. Poindexter moved an extra number of 30,000 copies; and spoke at length in support of his motion, and in favor of the report. Mr. King, of Georgia, followed him against the report: and Mr. Benton followed Mr. King on the same side. On the subject of the increase of expenditures doubled within the time mentioned, he showed that it came from extraordinary objects, not belonging to the expenses of the government, but temporary in their nature and transient in their existence; namely, the expenses of removing the Indians, the Indian war upon the Mississippi, and the pension act of 1832; which carried up the revolutionary pensions from $355,000 per annum to $3,500,000—just tenfold—and by an act which the friends of the administration opposed. He showed also that the increase in the number of persons employed, or supported by the government, came in a great degree from the same measure which carried up the number of pensioners from 17,000 to 40,000. On the subject of the illegal custody of the public moneys, it was shown, in the first place, that the custody was not illegal; and, in the second, that the deposit regulation bill had been defeated in the Senate by the opponents of the administration. Having vindicated the administration from the charge of extravagance, and the illegal custody of the public moneys, Mr. Benton came to the main part of the report—the surplus in the treasury, its distribution for eight years among the States (just the period to cover two presidential elections); and the proposed amendment to the constitution to permit that distribution to be made: and here it is right that the report should be allowed to speak for itself. Having assumed the annual surplus to be nine millions for eight years—until the compromise of 1833 worked out its problem;—that this surplus was inevitable, and that there was no legitimate object of federal care on which it could be expended, the report brought out distribution as the only practical depletion of the treasury, and the only remedy for the corruptions which an exuberant treasury engendered. It proceeded thus:

"But if nosubject of expenditure can be selected on which the surplus can be safely expended, and if neither the revenue nor expenditure can, under existing circumstances, be reduced, the next inquiry is, what is to be done with the surplus, which, as has been shown, will probably equal, on an average, for the next eight years, the sum of $9,000,000 beyond the just wants of the government? A surplus of which, unless some safe disposition can be made, all other means of reducing the patronage of the Executive must prove ineffectual.

"Your committee are deeply sensible of the great difficulty of finding any satisfactory solution of this question; but believing that the very existence of our institutions, and with them the liberty of the country, may depend on the success of their investigation, they have carefully explored the whole ground, and the result of their inquiry is, that but one means has occurred to them holding out any reasonable prospect of success. A few preliminary remarks will be necessary to explain their views.

"Amidst all the difficulties of our situation, there is one consolation: that the danger from Executive patronage, as far as it depends on excess of revenue, must be temporary. Assuming that the act of 2d of March, 1833, will be left undisturbed, by its provisions the income, after the year 1842, is to be reduced to the economical wants of the government. The government, then, is in a state of passage from one where the revenue is excessive, to another in which, at a fixed and no distant period, it will be reduced to its proper limits. The difficulty in the intermediate time is, that the revenue cannot be brought down to the expenditure, nor the expenditure, without great danger, raised to the revenue, for reasons already explained. How is this difficulty to be overcome? It might seem that the simple and natural means would be, to vest the surplus in some safe and profitable stock, to accumulate for future use; but the difficulty in such a course will, on examination, be found insuperable.

"At the very commencement, in selecting the stock, there would be great, if not insurmountable, difficulties. No one would think of investing the surplus in bank stock, against which there are so many and such decisive reasons that it is not deemed necessary to state them; nor would the objections be less decisive against vesting in the stock of the States, which would create the dangerous relation of debtor and creditor between the government and the members of the Union. But suppose this difficulty surmounted, and that some stock perfectly safe was selected, there would still remain another that could not be surmounted. There cannot be found a stock, with an interest in its favor sufficiently strong to compete with the interests which, with a large surplus revenue, will be ever found in favor of expenditures. It must be perfectly obvious to all who have the least experience, or who will duly reflect on the subject, that were a fund selected in which to vest the surplus revenue for future use, there would be found in practice a constant conflict between the interest in favor of some local or favorite scheme of expenditure, and that in favor of the stock. Nor can it be less obvious that, in point of fact, the former would prove far stronger than the latter. The result is obvious. The surplus, be it ever so great, would be absorbed by appropriations, instead of being vested in the stock; and the scheme, of course, would, in practice, prove an abortion; which brings us back to the original inquiry, how is the surplus to be disposed of until the excess shall be reduced to the just and economical wants of the government?

"After bestowing on this question, on the successful solution of which so much depends, the most deliberate attention, your committee, as they have already stated, can advise but one means by which it can be effected; and that is, an amendment of the constitution, authorizing the temporary distribution of the surplus revenue among the States till the year 1843; when, as has been shown, the income and expenditure will be equalized.

"Your committee are fully aware of the many and fatal objections to the distribution of the surplus revenue among the States, considered as a part of the ordinary and regular system of this government. They admit them to be as great as can well be imagined. The proposition itself, that the government should collect money for the purpose of such distribution, or should distribute a surplus for the purpose of perpetuating taxes, is too absurd to require refutation; and yet what would be when applied, as supposed, so absurd and pernicious, is, in the opinion of your committee, in the present extraordinary and deeply disordered state of our affairs, not only useful and salutary, but indispensable to the restoration of the body politic to a sound condition; just as some potent medicine, which it would be dangerous and absurd to prescribe to the healthy, may, to the diseased, be the only means of arresting the hand of death. Distribution, as proposed, is not for the preposterous and dangerous purpose of raising a revenue for distribution, or of distributing the surplus as a means of perpetuating a system of duties or taxes; but a temporary measure to dispose of an unavoidable surplus while the revenue is in the course of reduction, and which cannot be otherwise disposed of, without greatly aggravating a disease that threatens the most dangerous consequences; and which holds out hope, not only of arresting its further progress, but also of restoring the body politic to a state of health and vigor. The truth of this assertion a few observations will suffice to illustrate.

"It must be obvious, on a little reflection, that the effects of distribution of the surplus would be to place the interests of the States, on all questions of expenditure, in opposition to expenditure, as every reduction of expense would necessarily increase the sum to be distributed among the States. The effect of this would be to convert them, through their interests, into faithful and vigilant sentinels on the side of economy and accountability in the expenditures of this government; and would thus powerfully tend to restore the government, in its fiscal action, to the plain and honest simplicity of former days.

"It may, perhaps, be thought by some that the power which the distribution among the States would bring to bear against the expenditure and its consequent tendency to retrench

the disbursements of the government, would be so strong, as not only to curtail useless or improper expenditure, but also the useful and necessary. Such, undoubtedly, would be the consequence, if the process were too long continued; but in the present irregular and excessive action of the system, when its centripetal force threatens to concentrate all its powers in a single department, the fear that the action of this government will be too much reduced by the measure under consideration, in the short period to which it is proposed to limit its operation, is without just foundation. On the contrary, if the proposed measure should be applied in the present diseased state of the government, its effect would be like that of some powerful alterative medicine operating just long enough to change the present morbid action, but not sufficiently long to superinduce another of an opposite character.

"But it may be objected that, though the distribution might reduce all useless expenditure, it would at the same time give additional power to the interest in favor of taxation. It is not denied that such would be its tendency; and, if the danger from increased duties or taxes was at this time as great as that from a surplus revenue, the objection would be fatal; but it is confidently believed that such is not the case. On the contrary, in proposing the measure, it is assumed that the act of March 2, 1833, will remain undisturbed. It is on the strength of this assumption that the measure is proposed, and, s it is believed, safely proposed.

"It may, however, be said that the distribution may create, on the part of the States, an appetite in its favor which may ultimately lead to its adoption as a permanent measure. It may indeed tend to excite such an appetite, short as is the period proposed for its operation; but it is obvious that this danger is far more than countervailed by the fact that the proposed amendment to the constitution to authorize the distribution would place the power beyond the reach of legislative construction; and thus effectually prevent the possibility of its adoption as a permanent measure; as it cannot be conceived that three-fourths of the States will ever assent to an amendment of the constitution to authorize a distribution, except as an extraordinary measure, applicable to some extraordinary condition of the country like the present.

"Giving, however, to these and other objections which may be urged, all the force that can be claimed for them, it must be remembered the question is not whether the measure proposed is or is not liable to this or that objection, but whether any other less objectionable can be devised; or rather, whether there is any other, which promises the least prospect of relief, that can be applied. Let not the delusion prevail that the disease, after running through its natural course, will terminate of itself, without fatal consequences. Experience is opposed to such anticipations. Many and striking are the examples of free States perishing under that excess of patronage which now afflicts ours. It may, in fact, be said with truth, that all or nearly all diseases which afflict free governments may be traced directly or indirectly to excess of revenue and expenditure; the effect of which is to rally around the government a powerful, corrupt, and subservient corps—a corps ever obedient to its will, and ready to sustain it in every measure, whether right or wrong; and which, if the cause of the disease be not eradicated, must ultimately render the government stronger than the people.

"What progress this dangerous disease has already made in our country it is not for your committee to say; but when they reflect on the present symptoms; on the almost unbounded extent of executive patronage, wielded by a single will; the surplus revenue, which cannot be reduced within proper limits in less than seven years—a period which covers two presidential elections, on both of which all this mighty power and influence will be brought to bear; and when they consider that, with the vast patronage and influence of this government, that of all the States acting in concert with it will be combined, there are just grounds to fear that the fate which has befallen so many other free governments must also befall ours, unless, indeed, some effectual remedy be forthwith applied. It is under this impression that your committee have suggested the one proposal; not as free from all objections, but as the only one of sufficient power to arrest the disease and to restore the body politic to a sound condition; and they have accordingly reported a resolution so to amend the constitution that the money remaining in the treasury at the end of each year till the 1st of January, 1843, deducting therefrom the sum of $2,000,000 to meet current and contingent expenses, shall annually be distributed among the States and Territories, including the District of Columbia; and, for that purpose, the sum to be distributed to be divided into as many shares as there are senators and representatives in Congress, adding two for each territory and two for the District of Columbia; and that there shall be allotted to each State a number of shares equal to its representation in both Houses, and to the territories, including the District of Columbia, two shares each. Supposing the surplus to be distributed should average $9,000,000 annually, as estimated, it would give to each share $30,405; which multiplied by the number of senators and representatives from a State will show the amount to which any State will be entitled."

The report being here introduced to speak for itself, the reply also is introduced as delivered upon the instant, and found in the Congress register of debates, thus:

"Mr. Benton next came to the proposition in

the report to amend the constitution for eight years, to enable Congress to make distribution among the States, Territories, and District of Columbia, of the annual surplus of public money. The surplus is carefully calculated at $9,000,000 per annum for eight years; and the rule of distribution assumed goes to divide that sum into as many shares as there are senators and representatives in Congress; each State to take shares according to her representation; which the report shows would give for each share precisely $30,405; and then leaves it to the State itself, by a little ciphering, in multiplying the aforesaid sum of $30,405 by the whole number of senators and representatives which it may have in Congress, to calculate the annual amount of the stipend it would receive. This process the report extends through a period of eight years; so that the whole sum to be divided to the States, Territories, and District of Columbia, will amount to seventy-two millions of dollars.

"Of all the propositions which he ever witnessed, brought forward to astonish the senses, to confound recollection, and to make him doubt the reality of a past or a present scene, this proposition, said Mr. B., eclipses and distances the whole! What! the Senate of the United States—not only the same Senate, but the same members, sitting in the same chairs, looking in each others' faces, remembering what each had said only a few short months ago—now to be called upon to make an alteration in the constitution of the United States, for the pupose of dividing seventy-two millions of surplus money in the treasury; when that same treasury was proclaimed, affirmed, vaticinated, and proved, upon calculations, for the whole period of the last session, to be sinking into bankruptcy! that it would be destitute of revenue by the end of the year, and could never be replenished until the deposits were restored! the bank rechartered! and the usurper and despot driven from the high place which he dishonored and abused! This was the cry then; the cry which resounded through this chamber for six long months, and was wafted upon every breeze to every quarter of the Republic, to alarm, agitate, disquiet and enrage the people. The author of this report, and the whole party with which he marched under the *oriflamme* of the Bank of the United States, filled the Union with this cry of a bankrupt treasury, and predicted the certain and speedy downfall of the administration, from the want of money to carry on the operations of the government.

"[Mr. Calhoun here rose and wished to know of Mr. Benton whether he meant to include him in the number of those who had predicted a deficiency in the revenue.]

"Mr. B. said he would answer the gentleman by telling him an anecdote. It was the story of a drummer taken prisoner in the low countries by the videttes of Marshal Saxe, under circumstances which deprived him of the protection of the laws of war. About to be shot, the poor drummer plead in his defence that he was a non-combatant; he did not fight and kill people; he did nothing, he said, but beat his drum in the rear of the line. But he was answered, so much the worse; that he made other people fight, and kill one another, by driving them on with that drum of his in the rear of the line; and so he should suffer for it. Mr. B. hoped that the story would be understood, and that it would be received by the gentleman as an answer to his question; as neither in law, politics, nor war, was there any difference between what a man did by himself, and did by another. Be that as it may, said Mr. B., the strangeness of the scene in which we are now engaged remains the same. Last year it was a bankrupt treasury, and a beggared government; now it is a treasury gorged to bursting with surplus millions, and a government trampling down liberty, contaminating morals, bribing and wielding vast masses of people, from the unemployable funds of countless treasures. Such are the scenes which the two sessions present; and it is in vain to deny it, for the fatal speeches of that fatal session have gone forth to all the borders of the republic. They were printed here by the myriad, franked by members by the ton weight, freighted to all parts by a decried and overwhelmed Post Office, and paid for! paid for! by whom? Thanks for one thing, at least! The report of the Finance Committee on the bank (Mr. Tyler's report) effected the exhumation of one mass—one mass of hidden and buried putridity; it was the printing account of the Bank of the United States for that session of Congress which will long live in the history of our country under the odious appellation of the panic session. That printing account has been dug up; is the black vomit of the bank! and he knew the medicine which could bring forty such vomits from the foul stomach of the old red harlot. It was the medicine of a committee of investigation, constituted upon parliamentary principles; a committee, composed, in its majority, of those who charged misconduct, and evinced a disposition to probe every charge to the bottom; such a committee as the Senate had appointed, at the same session, not for the bank, but for the post office.

"Yes, exclaimed Mr. B., not only the treasury was to be bankrupt, but the currency was to be ruined. There was to be no money. The trash in the treasury, what little there was, was to be nothing but depreciated paper, the vile issues of insovlent pet banks. Silver, and United States bank notes, and even good bills of exchange, were all to go off, all to take leave, and make their mournful exit together; and gold! that was a trick unworthy of countenance; a gull to bamboozle the simple, and to insult the intelligent, until the fall election were over. Ruin, ruin, ruin to the currency was the lugubrious cry of the day, and the sor-

rowful burden of the speech for six long months. Now, on the contrary, it seems to be admitted that there is to be money, real good money, in the treasury, such as the fiercest haters of the pet banks would wish to have; and that not a little, since seventy-two millions of surpluses are proposed to be drawn from that same empty treasury in the brief space of eight years. Not a word about ruined currency now. Not a word about the currency itself. The very word seems to be dropped from the vocabulary of gentlemen. All lips closed tight, all tongues hushed still, all allusion avoided, to that once dear phrase. The silver currency doubled in a year; four millions of gold coins in half a year; exchanges reduced to the lowest and most uniform rates; the whole expenses of Congress paid in gold; working people receiving gold and silver for their ordinary wages. Such are the results which have confounded the prophets of wo, silenced the tongues of lamentation, expelled the word currency from our debates; and brought the people to question, if it cannot bring themselves, to doubt, the future infallibility of those undaunted alarmists who still go forward with new and confident predictions, notwithstanding they have been so recently and so conspicuously deceived in their vaticinations of a ruined currency, a bankrupt treasury, and a beggard government.

"But here we are, said Mr. B., actually engaged in a serious proposition to alter the constitution of the United States for the period of eight years, in order to get rid of surplus revenue; and a most dazzling, seductive, and fascinating scheme is presented; no less than nine millions a year for eight consecutive years. It took like wildfire, Mr. B. said, and he had seen a member—no, that might seem too particular—he had seen a gentleman who looked upon it as establishing a new era in the affairs of our America, establishing a new test for the formation of parties, bringing a new question into all our elections, State and federal; and operating the political salvation and elevation of all who supported it and the immediate, utter, and irretrievable political damnation of all who opposed it. But Mr. B. dissented from the novelty of the scheme. It was an old acquaintance of his, only new vamped and new burnished, for the present occasion. It is the same proposition, only to be accomplished in a different way, which was brought forward, some years ago, by a senator from New Jersey (Mr. Dickerson) and which then received unmeasured condemnation, not merely for unconstitutionality, but for all its effects and consequences: the degradation of mendicant States, receiving their annual allowance from the bounty of the federal government; the debauchment of the public morals, when every citizen was to look to the federal treasury for money, and every candidate for office was to outbid his competitor in offering it; the consolidation of the States, thus resulting from a central supply of revenue; the folly of collecting with one hand to pay back with the other; and both hands to be greased at the expense of the citizen, who pays one man to collect the money from him, and another to bring it back to him, *minus* the interest and the cost of a double operation in fetching and carrying; and the eventual and inevitable progress of the scheme to the plunder of the weaker half of the Union by the stronger; when the stronger half would undoubtedly throw the whole burden of raising the money upon the weaker half, and then take the main portion to themselves. Such were the main objections uttered against this plan, seven years ago, when a gallant son of South Carolina (General Hayne) stood by his (Mr. B.'s) side—no, stood before him—and led him in the fight against that fatal and delusive scheme, now brought forward under a more sedusive, dangerous, alarming, inexcusable, unjustifiable, and demoralizing form.

"Yes, said Mr. B., it is not only the revival of the same plan for dividing surplus revenue, which received its condemnation on this floor, seven or eight years ago; but it is the modification, and that in a form infinitely worse for the new States, of the famous land bill which now lies upon our table. It takes up the object of that bill, and runs away with it, giving nine millions where that gave three, and leaves the author of that bill out of sight behind; and can the gentleman from South Carolina (Mr. Calhoun) be so short-sighted as not to see that somebody will play him the same prank, and come forward with propositions to raise and divide twenty, thirty, forty millions; and thus outleap, outjump, and outrun him in the race of popularity, just as far as he himself has now outjumped, outleaped, and outran, the author of the land distribution bill?

"Yes, said Mr. B., this scheme for dividing surplus revenue is an old acquaintance on this floor; but never did it come upon this floor at a time so inauspicious, under a form so questionable, and upon assumptions so unfounded in fact, so delusive in argument. He would speak of the inauspiciousness of the time hereafter; at present, he would take positions in direct contradiction to all the arguments of fact and reason upon which this monstrous scheme of distribution is erected and defended. Condensed into their essence, these arguments are:

"1. That there will be a surplus of nine millions annually, for eight years.

"2. That there is no way to reduce the revenue.

"3. That there is no object of general utility to which these surpluses can be applied.

"4. That distribution is the only way to carry them off without poisoning and corrupting the whole body politic.

"Mr. B. disputed the whole of those propositions, and would undertake to show each to be unfounded and erroneous.

"1. The report says that the surplus will probably equal, on the average, for the next eight

years, the sum of $9,000,000 beyond the just wants of the government; and in a subsequent part it says, supposing the surplus to be distributed should average $9,000,000, annually, as estimated, it would give to each share $30,405, which, multiplied by the senators and representatives of any State, would show the sum to which it would be entitled. The amendment which has been reported to carry this distribution into effect is to take effect for the year 1835—the present year—and to continue till the 1st day of January, 1843; of course it is inclusive of 1842, and makes a period of eight years for the distribution to go on. The amendment contains a blank, which is to be filled up with the sum which is to be left in the treasury every year, to meet contingent and unexpected demands; and the report shows that this blank is to be filled with the sum of $2,000,000. Here, then, is the totality of these surpluses, eleven millions a year, for eight consecutive years; but of which nine millions are to be taken annually for distribution. Now, nine times eight are seventy-two, so that here is a report setting forth the enormous sum of $72,000,000 of mere surplus, after satisfying all the just wants of the government, and leaving two millions in the treasury, to be held up for distribution, and to excite the people to clamor for their shares of such a great and dazzling prize. At the same time, Mr. B. said, there would be no such surplus. It was a delusive bait held out to whet the appetite of the people for the spoils of their country; and could never be realized, even if the amendment for authorizing the distribution should now pass. The seventy-two millions could never be found; they would exist nowhere but in this report, in the author's imagination, and in the deluded hopes of an excited community. The seventy-two millions could never be found; they would turn out to be the 'fellows in Kendal green and buckram suits,' which figured so largely in the imagination of Sir John Falstaff—the two-and-fifty men in buckram which the valiant old knight received upon his point, thus! [extending a pencil in the attitude of defence]. The calculations of the author of the report were wild, delusive, astonishing, incredible. He (Mr. B.) could not limit himself to the epithet wild, for it was a clear case of hallucination.

"Mr. B. then took up the treasury report of Mr. Secretary Woodbury, communicated at the commencement of the present session of Congress, and containing the estimates required by law of the expected income and expenditure for the present year, and also for the year 1836. At pages 4 and 5 are the estimates for the present year; the income estimated at $20,000,000, the expenditures at $19,683,540; being a difference of only some three hundred thousand dollars between the income and the outlay; and such is the chance for nine millions taken, and two left in the first year of the distribution. At pages 10, 14, 15, the revenue for 1836 is computed; and, after going over all the heads of expense, on which diminutions will probably be made, he computes the income and outlay of the year at about equal; or probably a little surplus to the amount of one million. These are the estimates, said Mr. B., formed upon data, and coming from an officer making reports upon his responsibility, and for the legislative guidance of Congress; and to which we are bound to give credence until they are shown to be incorrect. Here, then, are the first two years of the eight disposed of, and nothing found in them to divide. The last two years of the term could be dispatched even more quickly, said Mr. B.; for every body that understands the compromise act of March, 1833, must know that, in the last two years of the operation of that act, there would be an actual deficit in the treasury. Look at the terms of the act! It proceeds by slow and insensible degrees, making slight deductions once in two years, until the years 1841 and 1842, when it ceases crawling, and commences jumping; and leaps down, at two jumps, to twenty per centum on the value of the articles which pay duty, which articles are less than one half of our importations. Twenty per cent. upon the amount of goods which will then pay duty will produce but little, say twelve or thirteen millions, upon the basis of sixty or seventy millions of dutiable articles imported then, which only amount to forty-seven millions now. Then there will be no surplus at all for one half the period of eight years: the first two and the last two. In the middle period of four years there will probably be a surplus of two or three millions; but Mr. B. took issue upon all the allegations with respect to it; as that there was no way to reduce the revenue without disturbing the compromise act of March, 1833; that there was no object of general utility to which it could be applied; and that distribution was the only way to get rid of it.

"Equally delusive, and profoundly erroneous, was the gentleman's idea of the surplus which could be taken out of the appropriations. True, that operation could be performed once, and but once. The run of our treasury payments show that about one quarter of the year's expenditure is not paid within the year, but the first quarter of the next year, and thus could be paid out of the revenue received in the first quarter of the next year, even if the revenue of the last quarter of the preceding year was thrown away. But this was a thing which could only be done once. You might rely upon the first quarter, but you could not upon the second, third, and fourth. There would not be a dollar in the treasury at the end of four years, if you deducted a quarter's amount four times successively. It was a case, if a homely adage might be allowed, which would well apply—you could not eat the cake and have it too. Mr. B. submitted it, then, to the Senate, that, on the first point of objection to the report, his issue was maintained. There was no such surplus of nine millions a year for eight years,

as had been assumed, nor any thing near it; and this assumption being the corner-stone of the whole edifice of the scheme of distribution, it was sufficient to show the fallacy of that data to blow the whole scheme into the empty air.

Mr. B. admonished the Senate to beware of ridicule. To pass a solemn vote for amending the constitution, for the purpose of enabling Congress to make distribution of surpluses of revenue, and then find no surplus to distribute, might lessen the dignity and diminish the weight of so grave a body. It might expose it to ridicule; and that was a hard thing for public bodies, and public men, to stand. The Senate had stood much in its time; much in the latter part of Mr. Monroe's administration, when the Washington Republican habitually denounced it as a faction, and displayed many brilliant essays, written by no mean hand, to prove that the epithet was well applied, though applied to a majority. It had stood much, also, during the four years of the second Mr. Adams's administration; as the surviving pages of the defunct National Journal could still attest: but in all that time it stood clear of ridicule; it did nothing upon which saucy wit could lay its lash. Let it beware now! for the passage of this amendment may expose it to untried peril; the peril of song and caricature. And wo to the Senate, farewell to its dignity, if it once gets into the windows of the print-shop, and becomes the burden of the ballads which the milkmaids sing to their cows.

"2. Mr. B. took up his second head of objection. The report affirmed that there was no way to reduce the revenue before the end of the year 1842, without violating the terms of the compromise act of March, 1833. Mr. B. said he had opposed that act when it was on its passage, and had then stated his objections to it. It was certainly an extraordinary act, a sort of new constitution for nine years, as he had heard it felicitously called. It was made in an unusual manner, not precisely by three men on an island on the coast of Italy, but by two in some room of a boarding-house in this city; and then pushed through Congress under a press of sail, and a duresse of feeling; under the factitious cry of dissolution of the Union, raised by those who had been declaring, on one hand, that the tariff could not be reduced without dissolving the Union; and on the other that it could not be kept up without dissolving the same Union. The value of all such cries, Mr. B. said, would be appreciated in future, when it was seen with how much facility certain persons who had stood under the opposite poles of the earth, as it were, on the subject of the tariff, had come together to compromise their opinions, and to lay the tariff on the shelf for nine years! a period which covered two presidential elections! That act was no favorite of his, but he would let it alone; and thus leaving it to work out its design for nine years, he would say there were ways to reduce the revenue, very sensibly, without affecting the terms or the spirit of that act. And here he would speak upon data. He had the authority of the Secretary of the Treasury (Mr. Woodbury) to declare that he believed he could reduce the revenue in this way and upon imports to the amount of five hundred thousand dollars; and he, Mr. B., should submit a resolution calling upon the Secretary to furnish the details of this reduction to the Senate at the commencement of their next stated session, that Congres might act upon it. Further, Mr. B. would say, that it appeared to him that the whole list of articles in the fifth section of the act, amounting to thirty or forty in number, and which by that section are to be free of duty in 1842, and which in his opinion might be made free this day, and that not only without injuiry to the manufacturers, but with such manifest advantage to them, that, as an equivalent for it, and for the sake of obtaining it, they ought to come forward of themselves, and make a voluntary concession of reductions on some other points, especially on some classes of woollen goods,

"Having given Mr. Woodbury's authority for a reduction of $500,000 on imports, Mr. B. would show another source from which a much larger reduction could be made, and that without affecting this famous act of March, 1833, in another and a different quarter; it was in the Western quarter, the new States, the public lands! The act of 1833 did not embrace this source of revenue, and Congress was free to act upon it, and to give the people of the new States the same relief on the purchase of the article on which they chiefly paid revenue as it had done to the old States in the reduction of the tariff. Mr. B. did not go into the worn-out and exploded objections to the reduction of the price of the lands which the report had gathered up from their old sleeping places, and presented again to the Senate. Speculators, monopolies, the fall in the price of real estate all over the Union; these were exploded fallacies which he was sorry to see paraded here again, and which he should not detain the Senate to answer. Suffice it to say, that there is no application made now, made heretofore, or intended to be made, so far as he knew, to reduce the price of new land! One dollar and a quarter was low enough for the first choice of new lands; but it was not low enough for the second, third, fourth, and fifth choices! It was not low enough for the refuse lands which had been five, ten, twenty, forty years in market; and which could find no purchaser at $1 25, for the solid reason that they were worth but the half, the quarter, the tenth part, of that sum. It was for such lands that reduction of prices was sought, and had been sought for many years, and would continue to be sought until it was obtained; for it was impossible to believe that Congress would persevere in the flagrant injustice of for ever refusing to reduce the price of refuse and unsalable lands to their actual value. The policy of President Jackson, communicated in his messages, Mr. B. said, was the policy of wisdom and justice. He was for disposing of the

lands more for the purpose of promoting settlements, and creating freeholders, than for the purpose of exacting revenue from the meritorious class of citizens who cultivate the soil. He would sell the lands at prices which would pay expenses—the expense of acquiring them from the Indians, and surveying and selling them; and this system of moderate prices with donations, or nominal sales to actual settlers, would do justice to the new States, and effect a sensible reduction in the revenue; enough to prevent the necessity of amending the constitution to get rid of nine million surpluses! But whether the price of lands was reduced or not, Mr. B. said, the revenue from that source would soon be diminished. The revenue had been exorbitant from the sale of lands for three or four years past. And why? Precisely because immense bodies of new lands, and much of it in the States adapted to the production of the great staples which now bear so high a price, have within that period, come into market; but these fresh lands must soon be exhausted; the old and refuse only remain for sale; and the revenue from that source will sink down to its former usual amount, instead of remaining at three millions a year for nine years, as the report assumes.

"3. When he had thus shown that a diminution of revenue could be effected, both on imports and on refuse and unsalable lands, Mr. B. took up the third issue which he had joined with the report; namely, the possibility of finding an object of general utility on which the surpluses could be expended. The report affirmed there was no such object; he, on the contrary, affirmed that there were such; not one, but several, not only useful, but necessary, not merely necessary, but exigent; not exigent only, but in the highest possible degree indispensable and essential. He alluded to the whole class of measures connected with the general and permanent defence of the Union! In peace, prepare for war! is the admonition of wisdom in all ages and in all nations; and sorely and grievously has our America heretofore paid for the neglect of that admonition. She has paid for it in blood, in money, and in shame. Are we prepared now? And is there any reason why we should not prepare now? Look at your maritime coast, from Passamaquoddy Bay to Florida point; your gulf coast, from Florida point to the Sabine; your lake frontier, in its whole extent. What is the picture? Almost destitute of forts; and, it might be said, quite destitute of armament. Look at your armories and arsenals—too few and too empty; and the West almost destitute! Look at your militia, many of them mustering with corn stalks; the States deficient in arms, especially in field artillery, and in swords and pistols for their cavalry! Look at your navy; slowly increasing under an annual appropriation of half a million a year, instead of a whole million, at which it was fixed soon after the late war, and from which it was reduced some years ago, when money ran low in the treasury! Look at your dock-yards and navy-yards; thinly dotted along the maritime coast, and hardly seen at all on the gulf coast, where the whole South, and the great West, so imperiously demand naval protection! Such is the picture; such the state of our country; such its state at this time, when even the most unobservant should see something to make us think of defence! Such is the state of our defences now, with which, oh! strange and wonderful contradiction! the administration is now reproached, reviled, flouted, and taunted, by those who go for distribution, and turn their backs on defence! and who complain of the President for leaving us in this condition, when five years ago, in the year 1829, he recommended the annual sum of $250,000 for arming the fortifications (which Congress refused to give), and who now are for taking the money out of the treasury, to be divided among the people; instead of turning it all to the great object of the general and permanent defence of the Union, for which they were so solicitous, so clamorous, so feelingly alive, and patriotically sensitive, even one short month ago.

"Does not the present state of the country (said Mr. B.) call for defence? and is not this the propitious time for putting it in defence? and will not that object absorb every dollar of real surplus that can be found in the treasury for these eight years of plenty, during which we are to be afflicted with seventy-two millions of surplus? Let us see. Let us take one single branch of the general system of defence, and see how it stands, and what it would cost to put it in the condition which the safety and the honor of the country demanded. He spoke of the fortifications, and selected that branch, because he had data to go upon; data to which the senator from South Carolina, the author of this report, could not object.

"The design (said Mr. B.) of fortifying the coasts of the United States is as old as the Union itself. Our documents are full of executive recommendations, departmental reports, and reports of committees upon this subject, all urging this great object upon the attention of Congress. From 1789, through every succeeding administration, the subject was presented to Congress; but it was only after the late war, and when the evils of a defenceless coast were fresh before the eyes of the people, that the subject was presented in the most impressive, persevering, and systematic form. An engineer of the first rank (General Bernard) was taken into our service from the school of the great Napoleon. A resolution of the House of Representatives called on the War Department for a plan of defence, and a designation of forts adequate to the projection of the country; and upon this call examinations were made, estimates framed, and forts projected for the whole maritime coast from Savannah to Boston. The result was the presentation, in 1821, of a plan for ninety forts upon that part of the coast; namely, twenty-four of the first class; twenty-three of the second; and forty

three of the third. Under the administration of Mr. Monroe, and the urgent recommendations of the then head of the War Department (Mr. Calhoun), the construction of these forts was commenced, and pushed with spirit and activity; but, owing to circumstances not necessary now to be detailed, the object declined in the public favor, lost a part of its popularity, perhaps justly, and has since proceeded so slowly that, at the end of twenty years from the late war, no more than thirteen of these forts have been constructed; namely, eight of the first class, three of the second, and two of the third; and of these thirteen constructed, none are armed; almost all of them are without guns or carriages, and more ready for the occupation of an enemy than for the defence of ourselves. This is the state of fortifications on the maritime coast, exclusive of the New England coast to the north of Boston, exclusive of Cape Cod, south of Boston, and exclusive of the Atlantic coast of Florida. The lake frontier is untouched. The gulf frontier, almost two thousand miles in length, barely is dotted with a few forts in the neighborhood of Pensacola, New Orleans, and Mobile; all the rest of the coast may be set down as naked and defenceless. This was our condition. Now, Mr. B. did not venture to give an opinion that the whole plan of fortifications developed in the reports of 1821 should be carried into effect; but he would say, and that most confidently, that much of it ought to be; and it would be the business of Congress to decide on each fort in making a specific appropriation for it. He would also say that many forts would be found to be necessary which were not embraced in that plan; for it did not touch the lake coast, and the gulf coast, nor the New England coast, north of Boston, nor any point of the land frontier. Without going into the question at all, of how many were necessary, or where they should be placed, it was sufficient to show that there were enough wanting, beyond dispute, to constitute an object of utility, worthy of the national expenditure; and sufficient to absorb, not nine millions of annual surplus, to be sure, but about as many millions of surplus as would ever be found, and the bank stock into the bargain. The thirteen forts constructed had cost twelve millions one hundred and thirteen thousand dollars; near one million of dollars each. But this was for construction only; the armament was still to follow; and for this object two millions were estimated in 1821 for the ninety forts then recommended; and of that two millions it may be assumed that but little has been granted by Congress. So much for fortifications; in itself a single branch of defence, and sufficient to absorb many millions. But there were many other branches of defence which, Mr. B. said, he would barely enumerate. There was the navy, including its gradual increase, its dock-yards, its navy-yards; then the armories and arsenals, which were so much wanted in the South and West, and especially in the South, for a reason (besides those which apply to foreign enemies) which need not be named; then the supply of arms to the States, especially field artillery, swords, and pistols, for which an annual but inadequate appropriation had been made for so long a time that he believed the States had almost forgot the subject. Here are objects enough, Mr. President, exclaimed Mr. B., to absorb every dollar of our surplus, and the bank stock besides. The surpluses, he was certain, would be wholly insufficient, and the bank stock, by a solemn resolution of the two Houses of Congress, should be devoted to the object. As a fund was set apart, and held sacred and inviolable, for the payment of the public debt so; should a fund be now created for national defence, and this bank stock should be the first and most sacred item put into it. It is the only way to save that stock from becoming the prey of incessant contrivances to draw money from the treasury. Mr. B. said that he intended to submit resolutions, requesting the President to cause to be communicated to the next Congress full information upon all the points that he had touched; the probable revenue and expenditure for the next eight years; the plan and expense of fortifying the coast; the navy, and every other point connected with the general and permanent defence of the Union, with a view to let Congress take it up, upon system, and with a design to complete it without further delay. And he demanded, why hurry on this amendment before that information can come in?

"Now is the auspicious moment, said Mr. B., for the republic to rouse from the apathy into which it has lately sunk on the subject of national defence. The public debt is paid; a sum of six or seven millions will come from the bank; some surpluses may occur; let the national defence become the next great object after the payment of the debt, and all spare money go to that purpose. If further stimulus were wanted, it might be found in the present aspect of our foreign affairs, and in the reproaches, the taunts, and in the offensive insinuations which certain gentlemen have been indulging in for two months with respect to the defenceless state of the coast; and which they attribute to the negligence of the administration. Certainly such gentlemen will not take that money for distribution, for the immediate application of which their defenceless country is now crying aloud, and stretching forth her imploring hands.

"Mr. B. would here avail himself of a voice more potential than his own to enforce attention to the great object of national defence, the revival of which he was now attempting. It was a voice which the senator from South Carolina, the author of this proposition to squander in distributions the funds which should be sacred to defence, would instantly recognize. It was an extract from a message communicated to Congress, December 3, 1822, by President Monroe. Whether considered under the relation of similarity which it bears to the language and senti-

ments of cotemporaneous reports from the then head of the War Department; the position which the writer of those reports then held in relation to President Monroe; the right which he possessed, as Secretary of War, to know, at least, what was put into the message in relation to measures connected with his department; considered under any and all of these aspects, the extracts which he was about to read might be considered as expressing the sentiments, if not speaking the words, of the gentleman who now sees no object of utility in providing for the defence of his country; and who then plead the cause of that defence with so much truth and energy, and with such commendable excess of patriotic zeal.

"Mr. B. then read as follows:

"'Should war break out in any of those countries (the European), who can foretell the extent to which it may be carried, or the desolation which may spread? Exempt as we are from these causes (of European civil wars), our internal tranquillity is secure; and distant as we are from the troubled scene, and faithful to just principles in regard to other powers, we might reasonably presume that we should not be molested by them. This, however, ought not to be calculated on as certain. Unprovoked injuries are often inflicted, and even the peculiar felicity of our situation might, with some, be a cause of excitement and aggression. The history of the late wars in Europe furnishes a complete demonstration that no system of conduct, however correct in principle, can protect neutral powers from injury from any party; that a defenceless position and distinguished love of peace are the surest invitations to war; and that there is no way to avoid it, other than by being always prepared, and willing, for just cause, to meet it. If there be a people on earth, whose more especial duty it is to be at all times prepared to defend the rights with which they are blessed, and to surpass all others in sustaining the necessary burdens, and in submitting to sacrifices to make such preparations, it is undoubtedly the people of these States.'

"Mr. B. having read thus far, stopped to make a remark, and but a remark, upon a single sentiment in it. He would not weaken the force and energy of the whole passage by going over it in detail; but he invoked attention upon the last sentiment—our peculiar duty, so strongly painted, to sustain burdens, and submit to sacrifices, to accomplish the noble object of putting our country into an attitude of defence! The ease with which we can prepare for the same defence now, by the facile operation of applying to that purpose surpluses of revenue and bank stock, for which we have no other use, was the point on which he would invoke and arrest the Senate's attention.

"Mr. B. resumed his reading, and read the next paragraph, which enumerated all the causes which might lead to general war in Europe, and our involvement in it, and concluded with the declaration 'That the reasons for pushing forward all our measures of defence, with the utmost vigor, appear to me to acquire new force.' And then added, these causes for European war are now in as great force as then; the danger of our involvement is more apparent now than then; the reasons for sensibility to our national honor are nearer now than then; and upon all the principles of the passage from which he was reading, the reasons for pushing forward all our measures of defence with the utmost vigor, possessed far more force in this present year 1835, than they did in the year 1822.

"Mr. B. continued to read:

"'The United States owe to the world a great example, and by means thereof, to the cause of liberty and humanity a generous support. They have so far succeeded to the satisfaction of the virtuous and enlightened of every country. There is no reason to doubt that their whole movement will be regulated by a sacred regard to principle, all our institutions being founded on that basis. The ability to support our own cause, under any trial to which it may be exposed, is the great point on which the public solicitude rests. It has often been charged against free governments, that they have neither the foresight nor the virtue to provide at the proper season for great emergencies; that their course is improvident and expensive; that war will always find them unprepared; and, whatever may be its calamities, that its terrible warnings will be disregarded and forgotten as soon as peace returns. I have full confidence that this charge, so far as it relates to the United States, will be shown to be utterly destitute of truth.'

"Mr. B., as he closed the book, said, he would make a few remarks upon some of the points in this passage, which he had last read—the reproach so often charged upon free governments for want of foresight and virtue, their improvidence and expensiveness, their proneness to disregard and forget in peace the warning lessons of the most terrible calamities of war. And he would take the liberty to suggest that, of all the mortal beings now alive upon this earth, the author of the report under discussion ought to be the last to disregard and to forget the solemn and impressive admonition which the passage conveyed! the last to so act as to subject his government to the mortifying charge which has been so often cast upon them! the last to subject the virtue of the people to the humiliating trial of deciding between the defence and the plunder of their country!

"Mr. B. dwelt a moment on another point in the passage which he had read—the great example which this republic owed to the world, and to the cause of free governments, to prove itself capable of supporting its cause under every trial; and that by providing in peace for the dangers of war. It was a striking point in the passage, and presented a grand and philosophic conception to the reflecting mind. The

example to be shown to the world, and the duty of this republic to exhibit it, was an elevated and patriotic conception, and worthy of the genius which then presided over the War Department. But what is the example which we are now required to exhibit? It is that of a people preferring the spoils of their country to its defence! It is that of the electioneerer, going from city to city, from house to house, even to the uninformed tenant of the distant hamlet, who has no means of detecting the fallacies which are brought from afar to deceive his understanding: it is the example of this electioneerer, with slate and pencil in his hand (and here Mr. B. took up an old book cover, and a pencil, and stooped over it to make figures, as if working out a little sum in arithmetic), it is the example of this electioneerer, offering for distribution that money which should be sacred to the defence of his country; and pointing out for overthrow, at the next election, every candidate for office who should be found in opposition to this wretched and deceptive scheme of distribution. This is the example which it is proposed that we should now exhibit. And little did it enter into his (Mr. B.'s) imagination, about the time that message was written, that it should fall to his lot to plead for the defence of his country against the author of this report. He admired the grandeur of conception which the reports of the war office then displayed. He said he differed from the party with whom he then acted, in giving a general, though not a universal, support to the Secretary of War. He looked to him as one who, when mellowed by age and chastened by experience, might be among the most admired Presidents that ever filled the presidential chair. [Mr. B., by a *lapsus linguæ*, said throne, but corrected the expression on its echo from the galleries.]

"Mr. B. said there was an example which it was worthy to imitate: that of France; her coast defended by forts and batteries, behind which the rich city reposed in safety—the tranquil peasant cultivated his vine in security—while the proud navy of England sailed innoxious before them, a spectacle of amusement, not an object of terror. And there was an example to be avoided: the case of our own America during the late war; when the approach of a British squadron, upon any point of our extended coast, was the signal for flight, for terror, for consternation; when the hearts of the brave and the almost naked hands of heroes were the sole reliance for defence; and where those hearts and those hands could not come, the sacred soil of our country was invaded; the ruffian soldier and the rude sailor became the insolent masters of our citizens' houses; their footsteps marked by the desolation of fields the conflagration of cities, the flight of virgins, the violation of matrons! the blood of fathers, husbands, sons! This is the example which we should avoid!

"But the amendment is to be temporary: it is only to last until 1842. What an idea!—a temporary alteration in a constitution made for endless ages! But let no one think it will be temporary, if once adopted. No! if the people once come to taste that blood; if they once bring themselves to the acceptance of money from the treasury they are gone for ever. They will take that money in all time to come; and he that promises most, receives most votes. The corruption of the Romans, the debauchment of the voters, the venality of elections, commenced with the Tribunitial distribution of corn out of the public granaries; it advanced to the distribution of the spoils of foreign nations, brought home to Rome by victorious generals and divided out among the people; it ended in bringing the spoils of the country into the canvass for the consulship, and in putting up the diadem of empire itself to be knocked down to the hammer of the auctioneer. In our America there can be no spoils of conquered nations to distribute. Her own treasury—her own lands—can alone furnish the fund. Begin at once, no matter how, or upon what—surplus revenue, the proceeds of the lands, or the lands themselves—no matter; the progress and the issue of the whole game is as inevitable as it is obvious. Candidates bid, the voters listen; and a plundered and pillaged country—the empty skin of an immolated victim—is the prize and the spoil of the last and the highest bidder."

The proposition to amend the constitution to admit of this distribution was never brought to a vote. In fact it was never mentioned again after the day of the above discussion. It seemed to have support from no source but that of its origin; and very soon events came to scatter the basis on which the whole stress and conclusion of the report lay. Instead of a surplus of nine millions to cover the period of two presidential elections, there was a deficit in the treasury in the period of the first one; and the government reduced to the humiliating resorts to obtain money to keep itself in motion—mendicant expeditions to Europe to borrow money, returning without it—and paper money struck under the name of treasury notes. But this attempt to amend the constitution to permit a distribution, becomes a material point in the history of the working of our government, seeing that a distribution afterwards took place without the amendment to permit it.

CHAPTER CXXIX.

COMMENCEMENT OF TWENTY-FOURTH CONGRESS —PRESIDENT'S MESSAGE.

THE following was the list of the members:

SENATORS:

MAINE—Ether Shepley, John Ruggles.
NEW HAMPSHIRE—Isaac Hill, Henry Hubbard.
MASSACHUSETTS—Daniel Webster, John Davis.
RHODE ISLAND—Nehemiah R. Knight, Asher Robbins.
CONNECTICUT—Gideon Tomlinson, Nathan Smith.
VERMONT—Samuel Prentiss, Benjamin Swift.
NEW-YORK—Nathaniel P. Tallmadge, Silas Wright, jun.
NEW JERSEY—Samuel L. Southard, Garret D. Wall.
PENNSYLVANIA— James Buchanan, Samuel McKean.
DELAWARE—John M. Clayton, Arnold Naudain.
MARYLAND—Robert H. Goldsborough, Jos. Kent.
VIRGINIA—Benjamin Watkins Leigh, John Tyler.
NORTH CAROLINA—Bedford Brown, Willie P. Mangum.
SOUTH CAROLINA—J. C. Calhoun, William C. Preston.
GEORGIA—Alfred Cuthbert, John P. King.
KENTUCKY—Henry Clay, John J. Crittenden.
TENNESSEE—Felix Grundy, Hugh L. White.
OHIO—Thomas Ewing, Thomas Morris.
LOUISIANA—Alexander Porter, Robert C. Nicholas.
INDIANA—Wm. Hendricks, John Tipton.
MISSISSIPPI—John Black, Robert J. Walker.
ILLINOIS—Elias K. Kane, John M. Robinson.
ALABAMA—Wm. R. King, Gabriel P. Moore.
MISSOURI—Lewis F. Linn, Thomas H. Benton.

REPRESENTATIVES:

MAINE—Jeremiah Bailey, George Evans, John Fairfield, Joseph Hall, Leonard Jarvis, Moses Mason, Gorham Parks, Francis O. J. Smith—8.
NEW HAMPSHIRE—Benning M. Bean, Robert Burns, Samuel Cushman, Franklin Pierce, Jos. Weeks—5.
MASSACHUSETTS—John Quincy Adams, Nathaniel B. Borden, George N. Briggs, William B. Calhoun, Caleb Cushing, George Grennell, jr., Samuel Hoar, William Jackson, Abbot Lawrence, Levi Lincoln, Stephen C. Phillips, John Reed—12.
RHODE ISLAND—Dutee J. Pearce, W. Sprague —2.
CONNECTICUT—Elisha Haley, Samuel Ingham, Andrew T. Judson, Lancelot Phelps, Isaac Toucey, Zalmon Wildman—6.
VERMONT—Heman Allen, Horace Everett, Hiland Hall, Henry F. Janes, William Slade —5.
NEW-YORK—Samuel Barton, Saml. Beardsley, Abraham Bockee, Matthias J. Bovee, John W. Brown, C. C. Cambreleng, Graham H. Chapin, Timothy Childs, John Cramer, Ulysses F. Doubleday, Valentine Efner, Dudley Farlin, Philo C. Fuller, William K. Fuller, Ransom H. Gillet, Francis Granger, Gideon Hard, Abner Hazeltine, Hiram P. Hunt, Abel Huntington, Gerrit Y. Lansing, George W. Lay, Gideon Lee, Joshua Lee, Stephen B. Leonard, Thomas C. Love, Abijah Mann, jr., William Mason, John McKeon, Ely Moore, Sherman Page, Joseph Reynolds, David Russell, William Seymour, Nicholas Sickles, William Taylor, Joel Turrill, Aaron Vanderpoel, Aaron Ward, Daniel Wardwell—40.
NEW JERSEY—Philemon Dickerson, Samuel Fowler, Thomas Lee, James Parker, Ferdinand S. Schenck, William N. Shinn—6.
PENNSYLVANIA.—Joseph B. Anthony, Michael W. Ash, John Banks, Andrew Beaumont, Andrew Buchanan, George Chambers, William P. Clark, Edward Darlington, Harmar Denny, Jacob Fry, jr., John Galbraith, James Harper, Samuel S. Harrison, Joseph Henderson, William Hiester, Edward B. Hubley, Joseph R. Ingersoll, John Klingensmith, jr., John Laporte, Henry Logan, Job Mann, Thomas M. T. McKennan, Jesse Miller, Matthias Morris, Henry A. Muhlenberg, David Potts, jr., Joel B. Sutherland. David D. Wagener.—28.
DELAWARE.—John J. Milligan.—1.
MARYLAND.—Benjamin C. Howard, Daniel Jenifer, Isaac McKim, James A. Pearce, John N. Steele, Francis Thomas, James Turner, George C. Washington.—8.
VIRGINIA.—James M. H. Beale, James W. Bouldin, Nathaniel H. Claiborne, Walter Coles, Robert Craig, George C. Dromgoole, James Garland, G. W. Hopkins, Joseph Johnson, John W. Jones, George Loyall, Edward Lucas, John Y. Mason, William McComas, Charles F. Mercer, William S. Morgan, John M. Patton, John Roane, John Robertson, John Taliaferro, Henry A. Wise.—21.
NORTH CAROLINA.—Jesse A. Bynum, Henry W. Connor, Edmund Deberry, James Graham, Micajah T. Hawkins, James J. McKay, William Montgomery, Ebenezer Pettigrew, Abraham Rencher, William B. Shepard, Augustine H. Shepperd, Jesse Speight, Lewis Williams.—13.
SOUTH CAROLINA.—Robert B. Campbell, William J. Grayson, John K. Griffin, James H. Hammond, Richard J. Manning, Francis W. Pickens, Henry L. Pinckney, James Rogers, Waddy Thompson, jr.—9.
GEORGIA.—Jesse F. Cleveland, John Coffee Thomas Glasscock, Seaton Grantland, Charles E Haynes, Hopkins Holsey, Jabez Jackson, George W. Owens, George W. B. Towns.—9.
ALABAMA.—Reuben Chapman, Joab Lawler, Dixon H. Lewis, Francis S. Lyon, Joshua L. Martin.—5.

Mississippi.—David Dickson, J. F. H. Claiborne.—2.

Louisiana.—Rice Garland, Henry Johnson, Eleazer W. Ripley.—3.

Tennessee.—John Bell, Samuel Bunch, William B. Carter, William C. Dunlap, John B. Forester, Adam Huntsman, Cave Johnson, Luke Lea, Abram P. Maury, Balie Peyton, James K. Polk, E. J. Shields, James Standefer.—13.

Kentucky.—Chilton Allan, Lynn Boyd, John Calhoun, John Chambers, Richard French, Wm. J. Graves, Benjamin Hardin, James Harlan, Albert G. Hawes, Richard M. Johnson, Joseph R. Underwood, John White, Sherrod Williams.—13.

Missouri.—Wm. H. Ashley, Albert G. Harrison.—2.

Illinois.—Zadok Casey, William L. May, John Reynolds.—3.

Indiana.—Ratliff Boon, John Carr, John W. Davis, Edward A. Hannegan, George L. Kinnard, Amos Lane, Jonathan McCarty.—7.

Ohio.—William K. Bond, John Chaney, Thomas Corwin, Joseph H. Crane, Thomas L. Hamer, Elias Howell, Benjamin Jones, William Kennon, Daniel Kilgore, Sampson Mason, Jeremiah McLene, William Patterson, Jonathan Sloane, David Spangler, Bellamy Storer, John Thompson, Samuel F. Vinton, Taylor Webster Elisha Whittlesey.—19.

DELEGATES.

Arkansas Territory.—Ambrose H. Sevier.
Florida Territory.—Joseph M. White.
Michigan Territory.—George W. Jones.

Mr. James K. Polk of Tennessee, was elected speaker of the House, and by a large majority over the late speaker, Mr. John Bell of the same State. The vote stood one hundred and thirty-two to eighty-four, and was considered a test of the administration strength, Mr. Polk being supported by that party, and Mr. Bell having become identified with those who, in siding with Mr. Hugh L. White as a candidate for the presidency, were considered as having divided from the democratic party. Among the eminent names missed from the list of the House of Representatives, were: Mr. Wayne of Georgia, appointed to the bench of the Supreme Court of the United States; and Mr. Edward Everett of Massachusetts, who declined a re-election.

The state of our relations with France, in the continued non-payment of the stipulated indemnity, was the prominent feature in the President's message; and the subject itself becoming more serious in the apparent indisposition in Congress to sustain his views, manifested in the loss of the fortification bill, through the disagreement of the two Houses. The obligation to pay was admitted, and the money even voted for that purpose; but offence was taken at the President's message, and payment refused until an apology should be made. The President had already shown, on its first intimation, that no offence was intended, nor any disrespect justly deducible from the language that he had used; and he was now peremptory in refusing to make the required apology; and had instructed the United States' *chargé d'affaires* to demand the money; and, if not paid, to leave France immediately. The ministers of both countries had previously withdrawn, and the last link in the chain of diplomatic communication was upon the point of being broken. The question having narrowed down to this small point, the President deemed it proper to give a retrospective view of it, to justify his determination, neither to apologize nor to negotiate further. He said:

"On entering upon the duties of my station, I found the United States an unsuccessful applicant to the justice of France, for the satisfaction of claims, the validity of which was never questionable, and has now been most solemnly admitted by France herself. The antiquity of these claims, their high justice, and the aggravating circumstances out of which they arose, are too familiar to the American people to require description. It is sufficient to say, that, for a period of ten years and upwards, our commerce was, with but little interruption, the subject of constant aggressions, on the part of France—aggressions, the ordinary features of which were condemnations of vessels and cargoes, under arbitrary decrees, adopted in contravention, as well of the laws of nations as of treaty stipulations, burnings on the high seas, and seizures and confiscations, under special imperial rescripts, in the ports of other nations occupied by the armies, or under the control of France. Such, it is now conceded, is the character of the wrongs we suffered; wrongs, in many cases, so flagrant that even their authors never denied our right to reparation. Of the extent of these injuries, some conception may be formed from the fact that, after the burning of a large amount at sea, and the necessary deterioration in other cases, by long detention, the American property so seized and sacrificed at forced sales, excluding what was adjudged to privateers, before or without condemnation, brought into the French treasury upwards of twenty-four millions of francs, besides large custom-house duties.

"The subject had already been an affair of twenty years' uninterrupted negotiation, except for a short time, when France was overwhelmed by the military power of united Europe. During

this period, whilst other nations were extorting from her payment of their claims at the point of the bayonet, the United States intermitted their demand for justice, out of respect to the oppressed condition of a gallant people, to whom they felt under obligations for fraternal assistance in their own days of suffering and of peril. The bad effects of these protracted and unavailing discussions, as well upon our relations with France as upon our national character, were obvious; and the line of duty was, to my mind, equally so. This was, either to insist upon the adjustment of our claims, within a reasonable period, or to abandon them altogether. I could not doubt that, by this course, the interest and honor of both countries would be best consulted. Instructions were, therefore, given in this spirit to the minister, who was sent out once more to demand reparation. Upon the meeting of Congress, in December, 1829, I felt it my duty to speak of these claims, and the delays of France, in terms calculated to call the serious attention of both countries to the subject. The then French Ministry took exception to the message, on the ground of its containing a menace, under which it was not agreeable to the French government to negotiate. The American minister, of his own accord, refuted the construction which was attempted to be put upon the message, and, at the same time, called to the recollection of the French ministry, that the President's message was a communication addressed, not to foreign governments, but to the Congress of the United States, in which it was enjoined upon him, by the constitution, to lay before that body information of the state of the Union, comprehending its foreign as well as its domestic relations; and that if, in the discharge of this duty, he felt it incumbent upon him to summon the attention of Congress in due time to what might be the possible consequences of existing difficulties with any foreign government, he might fairly be supposed to do so, under a sense of what was due from him in a frank communication with another branch of his own government, and not from any intention of holding a menace over a foreign power. The views taken by him received my approbation, the French government was satisfied, and the negotiation was continued. It terminated in the treaty of July 4, 1831, recognizing the justice of our claims, in part, and promising payment to the amount of twenty-five millions of francs, in six annual instalments.

"The ratifications of this treaty were exchanged at Washington, on the 2d of February, 1832; and, in five days thereafter, it was laid before Congress, who immediately passed the acts necessary, on our part, to secure to France the commercial advantages conceded to her in the compact. The treaty had previously been solemnly ratified by the King of the French, in terms which are certainly not mere matters of form, and of which the translation is as follows: 'We, approving the above convention, in all and each of the depositions which are contained in it, do declare by ourselves, as well as by our heirs and successors, that it is accepted, approved, ratified, and confirmed; and by these presents, signed by our hand, we do accept, approve, ratify, and confirm it; promising, on the faith and word of a king, to observe it, and to cause it to be observed inviolably, without ever contravening it, or suffering it to be contravened, directly or indirectly, for any cause, or under any pretence whatsoever.'

"Official information of the exchange of ratifications in the United States reached Paris, whilst the Chambers were in session. The extraordinary, and, to us, injurious delays of the French government, in their action upon the subject of its fulfilment, have been heretofore stated to Congress, and I have no disposition to enlarge upon them here. It is sufficient to observe that the then pending session was allowed to expire, without even an effort to obtain the necessary appropriations—that the two succeeding ones were also suffered to pass away without any thing like a serious attempt to obtain a decision upon the subject; and that it was not until the fourth session—almost three years after the conclusion of the treaty, and more than two years after the exchange of ratifications—that the bill for the execution of the treaty was pressed to a vote, and rejected. In the mean time, the government of the United States, having full confidence that a treaty entered into and so solemnly ratified by the French king, would be executed in good faith, and not doubting that provision would be made for the payment of the first instalment, which was to become due on the second day of February, 1833, negotiated a draft for the amount through the Bank of the United States. When this draft was presented by the holder, with the credentials required by the treaty to authorize him to receive the money, the government of France allowed it to be protested. In addition to the injury in the non-payment of the money by France, conformably to her engagement, the United States were exposed to a heavy claim on the part of the bank, under pretence of damages, in satisfaction of which, that institution seized upon, and still retains, an equal amount of the public moneys. Congress was in session when the decision of the Chambers reached Washington; and an immediate communication of this apparently final decision of France not to fulfil the stipulations of the treaty, was the course naturally to be expected from the President. The deep tone of dissatisfaction which pervaded the public mind, and the correspondent excitement produced in Congress by only a general knowledge of the result, rendered it more than probable, that a resort to immediate measures of redress would be the consequence of calling the attention of that body to the subject. Sincerely desirous of preserving the pacific relations which had so long existed between the two countries, I was anxious to avoid this course if I could be

satisfied that, by doing so, neither the interests nor the honor of my country would be compromitted. Without the fullest assurances upon that point, I could not hope to acquit myself of the responsibility to be incurred in suffering Congress to adjourn without laying the subject before them. Those received by me were believed to be of that character.

"The expectations justly founded upon the promises thus solemnly made to this government by that of France, were not realized. The French Chambers met on the 31st of July, 1834, soon after the election, and although our minister in Paris urged the French ministry to press the subject before them, they declined doing so. He next insisted that the Chambers, if prorogued without acting on the subject, should be reassembled at a period so early that their action on the treaty might be known in Washington prior to the meeting of Congress. This reasonable request was not only declined, but the Chambers were prorogued on the 29th of December; a day so late, that their decision, however urgently pressed, could not, in all probability, be obtained in time to reach Washington before the necessary adjournment of Congress by the constitution. The reasons given by the ministry for refusing to convoke the Chambers, at an earlier period, were afterwards shown not to be insuperable, by their actual convocation, on the first of December, under a special call for domestic purposes, which fact, however, did not become known to this government until after the commencement of the last session of Congress.

"Thus disappointed in our just expectations, it became my imperative duty to consult with Congress in regard to the expediency of a resort to retaliatory measures, in case the stipulations of the treaty should not be speedily complied with; and to recommend such as, in my judgment, the occasion called for. To this end, an unreserved communication of the case, in all its aspects, became indispensable. To have shrunk, in making it, from saying all that was necessary to its correct understanding, and that the truth would justify, for fear of giving offence to others, would have been unworthy of us. To have gone, on the other hand, a single step further, for the purpose of wounding the pride of a government and people with whom we had so many motives of cultivating relations of amity and reciprocal advantage, would have been unwise and improper. Admonished by the past of the difficulty of making even the simplest statement of our wrongs, without disturbing the sensibilities of those who had, by their position, become responsible for their redress, and earnestly desirous of preventing further obstacles from that source, I went out of my way to preclude a construction of the message, by which the recommendation that was made to Congress might be regarded as a menace to France, in not only disavowing such a design, but in declaring that her pride and her power were too well known to expect any thing from her fears. The message did not reach Paris until more than a month after the Chambers had been in session; and such was the insensibility of the ministry to our rightful claims and just expectations, that our minister had been informed that the mat ter, when introduced, would not be pressed as a cabinet measure.

"Although the message was not officially communicated to the French government, and notwithstanding the declaration to the contrary which it contained, the French ministry decided to consider the conditional recommendation of reprisals a menace and an insult, which the honor of the nation made it incumbent on them to resent. The measures resorted to by them to evince their sense of the supposed indignity were, the immediate recall of their minister at Washington, the offer of passports to the American minister at Paris, and a public notice to the legislative chambers that all diplomatic intercourse with the United States had been suspended.

"Having, in this manner, vindicated the dignity of France, they next proceeded to illustrate her justice. To this end a bill was immediately introduced into the Chamber of Deputies, proposing to make the appropriations necessary to carry into effect the treaty. As this bill subsequently passed into a law, the provisions of which now constitute the main subject of difficulty between the two nations, it becomes my duty, in order to place the subject before you in a clear light, to trace the history of its passage, and to refer, with some particularity, to the proceedings and discussions in regard to it. The Minister of Finance, in his opening speech, alluded to the measures which had been adopted to resent the supposod indignity, and recommended the execution of the treaty as a measure required by the honor and justice of France. He, as the organ of the ministry, declared the message, so long as it had not received the sanction of Congress, a mere expression of the personal opinion of the President, for which neither the government nor people of the United States were responsible; and that an engagement had been entered into, for the fulfilment of which the honor of France was pledged. Entertaining these views, the single condition which the French ministry proposed to annex to the payment of the money was, that it should not be made until it was ascertained that the government of the United States had done nothing to injure the interests of France; or, in other words, that no steps had been authorized by Congress of a hostile character towards France.

"What the disposition or action of Congress might be, was then unknown to the French Cabinet. But, on the 14th of January, the Senate resolved that it was, at that time inexpedient to adopt any legislative measures in regard to the state of affairs between the United States and France, and no action on the subject had occurred in the House of Representatives. These

facts were known in Paris prior to the 28th of March, 1835, when the committee, to whom the bill of indemnification had been referred, reported it to the Chamber of Deputies. That committee substantially re-echoed the sentiments of the ministry, declared that Congress had set aside the proposition of the President, and recommended the passage of the bill, without any other restriction than that originally proposed. Thus was it known to the French ministry and chambers that if the position assumed by them, and which had been so frequently and solemnly announced as the only one compatible with the honor of France, was maintained, and the bill passed as originally proposed, the money would be paid, and there would be an end of this unfortunate controversy.

"But this cheering prospect was soon destroyed by an amendment introduced into the bill at the moment of its passage, providing that the money should not be paid until the French government had received satisfactory explanations of the President's message of the 2d December, 1834; and, what is still more extraordinary, the president of the council of ministers adopted this amendment, and consented to its incorporation in the bill. In regard to a supposed insult which had been formally resented by the recall of their minister, and the offer of passports to ours, they now, for the first time, proposed to ask explanations. Sentiments and propositions, which they had declared could not justly be imputed to the government or people of the United States, are set up as obstacles to the performance of an act of conceded justice to that government and people. They had declared that the honor of France required the fulfilment of the engagement into which the King had entered, unless Congress adopted the recommendations of the message. They ascertained that Congress did not adopt them, and yet that fulfilment is refused, unless they first obtain from the President explanations of an opinion characterized by themselves as personal and inoperative."

Having thus traced the controversy down to the point on which it hung—no payment without an apology first made—the President took up this condition as a new feature in the case—presenting national degradation on one side, and twenty-five millions of francs on the other—and declared his determination to submit to no dishonor, and repulsed the apology as a stain upon the national character; and concluded this head of his message with saying:

"In any event, however, the principle involved in the new aspect which has been given to the controversy is so vitally important to the independent administration of the government, that it can neither be surrendered nor compromitted without national degradation. I hope it is unnecessary for me to say that such a sacrifice will not be made through any agency of mine. The honor of my country shall never be stained by an apology from me for the statement of truth and the performance of duty; nor can I give any explanation of my official acts, except such as is due to integrity and justice, and consistent with the principles on which our institutions have been framed. This determination will, I am confident, be approved by my constituents. I have indeed studied their character to but little purpose, if the sum of twenty-five millions of francs will have the weight of a feather in the estimation of what appertains to their national independence: and if, unhappily, a different impression should at any time obtain, in any quarter, they will, I am sure, rally round the government of their choice with alacrity and unanimity, and silence for ever the degrading imputation."

The loss of the fortification bill at the previous session, had been a serious interruption to our system of defences, and an injury to the country in that point of view, independently of its effect upon our relations with France. A system of general and permanent fortification of the coasts and harbors had been adopted at the close of the war of 1812; and throughout our extended frontier were many works in different degrees of completion, the stoppage of which involved loss and destruction, as well as delay, in this indispensable work. Looking at the loss of the bill in this point of view, the President said:

"Much loss and inconvenience have been experienced, in consequence of the failure of the bill containing the ordinary appropriations for fortifications which passed one branch of the national legislature at the last session, but was lost in the other. This failure was the more regretted, not only because it necessarily interrupted and delayed the progress of a system of national defence, projected immediately after the last war, and since steadily pursued, but also because it contained a contingent appropriation, inserted in accordance with the views of the Executive, in aid of this important object, and other branches of the national defence, some portions of which might have been most usefully applied during the past season. I invite your early attention to that part of the report of the Secretary of War which relates to this subject, and recommend an appropriation sufficiently liberal to accelerate the armament of the fortifications agreeably to the proposition submitted by him, and to place our whole Atlantic seaboard in a complete state of defence. A just regard to the permanent interests of the country evidently requires this measure. But there are also other reasons which at the present juncture give it peculiar force, and make it my

duty to call the subject to your special consideration."

The plan for the removal of the Indians to the west of the Mississippi being now in successful progress and having well nigh reached its consummation, the President took the occasion, while communicating that gratifying fact, to make an authentic exposition of the humane policy which had governed the United States in adopting this policy. He showed that it was still more for the benefit of the Indians than that of the white population who were relieved of their presence—that besides being fully paid for all the lands they abandoned, and receiving annuities often amounting to thirty dollars a head, and being inducted into the arts of civilized life, they also received in every instance more land than they abandoned, of better quality, better situated for them from its frontier situation, and in the same parallels of latitude. This portion of his message will be read with particular gratification by all persons of humane dispositions, and especially so by all candid persons who had been deluded into the belief of injustice and oppression practised upon these people. He said:

"The plan of removing the aboriginal people who yet remain within the settled portions of the United States, to the country west of the Mississippi River, approaches its consummation. It was adopted on the most mature consideration of the condition of this race, and ought to be persisted in till the object is accomplished, and prosecuted with as much vigor as a just regard to their circumstances will permit, and as fast as their consent can be obtained. All preceding experiments for the improvement of the Indians have failed. It seems now to be an established fact, that they cannot live in contact with a civilized community and prosper. Ages of fruitless endeavors have, at length, brought us to a knowledge of this principle of intercommunication with them. The past we cannot recall, but the future we can provide for. Independently of the treaty stipulations into which we have entered with the various tribes, for the usufructuary rights they have ceded to us, no one can doubt the moral duty of the government of the United States to protect, and, if possible, to preserve and perpetuate, the scattered remnants of this race, which are left within our borders. In the discharge of this duty, an extensive region in the West has been assigned for their permanent residence. It has been divided into districts, and allotted among them. Many have already removed, and others are preparing to go; and with the exception of two small bands, living in Ohio and Indiana, not exceeding 1,500 persons, and of the Cherokees, all the tribes on the east side of the Mississippi, and extending from Lake Michigan to Florida, have entered into engagements which will lead to their transplantation.

"The plan for their removal and re-establishment is founded upon the knowledge we have gained of their character and habits, and has been dictated by a spirit of enlarged liberality. A territory exceeding in extent that relinquished, has been granted to each tribe. Of its climate, fertility, and capacity to support an Indian population, the representations are highly favorable. To these districts the Indians are removed at the expense of the United States, and with certain supplies of clothing, arms, ammunition, and other indispensable articles, they are also furnished gratuitously with provisions for the period of a year after their arrival at their new homes. In that time, from the nature of the country, and of the products raised by them, they can subsist themselves by agricultural labor, if they choose to resort to that mode of life. If they do not, they are upon the skirts of the great prairies, where countless herds of buffalo roam, and a short time suffices to adapt their own habits to the changes which a change of the animals destined for their food may require. Ample arrangements have also been made for the support of schools. In some instances, council-houses and churches are to be erected, dwellings constructed for the chiefs, and mills for common use. Funds have been set apart for the maintenance of the poor. The most necessary mechanical arts have been introduced, and blacksmiths, gunsmiths, wheelwrights, millwrights, &c. are supported among them. Steel and iron, and sometimes salt, are purchased for them, and ploughs and other farming utensils domestic animals, looms, spinning-wheels, cars, &c., are presented to them. And besides these beneficial arrangements, annuities are in all cases paid, amounting in some instances to more than thirty dollars for each individual of the tribe; and in all cases sufficiently great, if justly divided, and prudently expended, to enable them, in addition to their own exertions, to live comfortably. And as a stimulus for exertion, it is now provided by law, that, "in all cases of the appointment of interpreters, or other persons employed for the benefit of the Indian, a preference shall be given to persons of Indian descent, if such can be found who are properly qualified for the discharge of the duties."

The effect of the revival of the gold currency was a subject of great congratulation with the President, and its influence was felt in every department of industry. Near twenty millions of dollars had entered the country—a sum far above the average circulation of the Bank of the United States in its best days, and a currency of a kind to diffuse itself over the country, and remain where there was a demand for it, and for

which, different from a bank paper currency, no interest was paid for its use, and no danger incurred of its becoming useless. He thus referred to this gratifying circumstance:

"Connected with the condition of the finances, and the flourishing state of the country in all its branches of industry, it is pleasing to witness the advantages which have been already derived from the recent laws regulating the value of the gold coinage. These advantages will be more apparent in the course of the next year, when the branch mints authorized to be established in North Carolina, Georgia, and Louisiana, shall have gone into operation. Aided, as it is hoped they will be, by further reforms in the banking systems of the States, and by judicious regulations on the part of Congress in relation to the custody of the public moneys, it may be confidently anticipated that the use of gold and silver as a circulating medium will become general in the ordinary transactions connected with the labor of the country. The great desideratum, in modern times, is an efficient check upon the power of banks, preventing that excessive issue of paper whence arise those fluctuations in the standard of value which render uncertain the rewards of labor. It was supposed by those who established the Bank of the United States, that, from the credit given to it by the custody of the public moneys, and other privileges, and the precautions taken to guard against the evils which the country had suffered in the bankruptcy of many of the State institutions of that period, we should derive from that institution all the security and benefits of a sound currency, and every good end that was attainable under that provision of the constitution which authorizes Congress alone to coin money and regulate the value thereof. But it is scarcely necessary now to say that these anticipations have not been realized. After the extensive embarrassment and distress recently produced by the Bank of the United States, from which the country is now recovering, aggravated as they were by pretensions to power which defied the public authority, and which, if acquiesced in by the people, would have changed the whole character of our government, every candid and intelligent individual must admit that, for the attainment of the great advantages of a sound currency, we must look to a course of legislation radically different from that which created such an institution."

Railroads were at this time still in their infancy in the United States; they were but few in number and comparatively feeble; but the nature of a monopoly is the same under all circumstances; and the United States, in their post-office department, had begun to feel the effects of the extortion and overbearing of monopolizing companies, clothed with chartered privileges intended to be for the public as well as private advantage, but usually perverted to purposes of self-enrichment, and of oppression. The evil had already become so serious as to require the attention of Congress; and the President thus recommended the subject to its consideration:

"Particular attention is solicited to that portion of the report of the postmaster-general which relates to the carriage of the mails of the United States upon railroads constructed by private corporations under the authority of the several States. The reliance which the general government can place on those roads as a means of carrying on its operations, and the principles on which the use of them is to be obtained, cannot too soon be considered and settled. Already does the spirit of monopoly begin to exhibit its natural propensities in attempts to exact from the public, for services which it supposes cannot be obtained on other terms, the most extravagant compensation. If these claims be persisted in, the question may arise whether a combination of citizens, acting under charters of incorporation from the States, can, by a direct refusal or the demand of an exorbitant price, exclude the United States from the use of the established channels of communication between the different sections of the country; and whether the United States cannot, without transcending their constitutional powers, secure to the post-office department the use of those roads, by an act of Congress which shall provide within itself some equitable mode of adjusting the amount of compensation. To obviate, if possible, the necessity of considering this question, it is suggested whether it be not expedient to fix, by law, the amounts which shall be offered to railroad companies for the conveyance of the mails, graduated according to their average weight, to be ascertained and declared by the postmaster-general. It is probable that a liberal proposition of that sort would be accepted."

The subject of slavery took a new turn of disturbance between the North and South about this time. The particular form of annoyance which it now wore was that of the transmission into the slave States, through the United States mail, of incendiary publications, tending to excite servile insurrections. Societies, individuals and foreigners were engaged in this diabolical work—as injurious to the slaves by the further restrictions which it brought upon them, as to the owners whose lives and property were endangered. The President brought this practice to the notice of Congress, with a view to its remedy. He said:

"In connection with these provisions in relation to the post-office department, I must also

invite your attention to the painful excitement produced in the South by attempts to circulate through the mails inflammatory appeals addressed to the passions of the slaves, in prints, and in various sorts of publications, calculated to stimulate them to insurrection, and to produce all the horrors of a servile war. There is doubtless no respectable portion of our countrymen who can be so far misled, as to feel any other sentiment than that of indignant regret at conduct so destructive of the harmony and peace of the country, and so repugnant to the principles of our national compact and to the dictates of humanity and religion. Our happiness and prosperity essentially depend upon peace within our borders: and peace depends upon the maintenance, in good faith, of those compromises of the constitution upon which the Union is founded. It is fortunate for the country that the good sense, the generous feeling, and the deep-rooted attachment of the people of the non-slaveholding States, to the Union, and to their fellow-citizens of the same blood in the South, have given so strong and impressive a tone to the sentiments entertained against the proceedings of the misguided persons who have engaged in these unconstitutional and wicked attempts, and especially against the emissaries from foreign parts, who have dared to interfere in this matter, as to authorize the hope that those attempts will no longer be persisted in. But if these expressions of the public will, shall not be sufficient to effect so desirable a result, not a doubt can be entertained that the non-slaveholding States, so far from countenancing the slightest interference with the constitutional rights of the South, will be prompt to exercise their authority in suppressing, so far as in them lies, whatever is calculated to produce this evil. In leaving the care of other branches of this interesting subject to the State authorities, to whom they properly belong, it is nevertheless proper for Congress to take such measures as will prevent the post-office department, which was designed to foster an amicable intercourse and correspondence between all the members of the confederacy, from being used as an instrument of an opposite character. The general government, to which the great trust is confided of preserving inviolate the relations created among the States, by the constitution, is especially bound to avoid in its own action any thing that may disturb them. I would, therefore, call the special attention of Congress to the subject, and respectfully suggest the propriety of passing such a law as will prohibit, under severe penalties, the circulation in the Southern States, through the mail, of incendiary publications intended to instigate the slaves to insurrection."

The President in this impressive paragraph makes a just distinction between the conduct of misguided men, and of wicked emissaries, engaged in disturbing the harmony of the Union, and the patriotic people of the non-slaveholding States who discountenance their work and repress their labors. The former receive the brand of reprobation, and are pointed out for criminal legislation: the latter receive the applause due to good citizens.

The President concludes this message, as he had done many others, with a recurrence to the necessity of reform in the mode of electing the two first officers of the Republic. His convictions must have been deep and strong thus to bring him back so many times to the fundamental point of direct elections by the people, and total suppression of all intermediate agencies. He says:

"I felt it to be my duty in the first message which I communicated to Congress, to urge upon its attention the propriety of amending that part of the constitution which provides for the election of the President and the Vice-President of the United States. The leading object which I had in view was the adoption of some new provision, which would secure to the people the performance of this high duty, without any intermediate agency. In my annual communications since, I have enforced the same views, from a sincere conviction that the best interests of the country would be promoted by their adoption. If the subject were an ordinary one, I should have regarded the failure of Congress to act upon it, as an indication of their judgment, that the disadvantages which belong to the present system were not so great as those which would result from any attainable substitute that had been submitted to their consideration. Recollecting, however, that propositions to introduce a new feature in our fundamental laws cannot be too patiently examined, and ought not to be received with favor, until the great body of the people are thoroughly impressed with their necessity and value, as a remedy for real evils, I feel that in renewing the recommendation I have heretofore made on this subject, I am not transcending the bounds of a just deference to the sense of Congress, or to the disposition of the people. However much we may differ in the choice of the measures which should guide the administration of the government, there can be but little doubt in the minds of those who are really friendly to the republican features of our system, that one of its most important securities consists in the separation of the legislative and executive powers, at the same time that each is held responsible to the great source of authority, which is acknowledged to be supreme, in the will of the people constitutionally expressed. My reflection and experience satisfy me, that the framers of the constitution, although they were anxious to mark this feature as a settled and fixed principle in the structure of the government, did not adopt

all the precautions that were necessary to secure its practical observance, and that we cannot be said to have carried into complete effect their intentions until the evils which arise from this organic defect are remedied. All history tells us that a free people should be watchful of delegated power, and should never acquiesce in a practice which will diminish their control over it. This obligation, so universal in its application to all the principles of a Republic, is peculiarly so in ours, where the formation of parties, founded on sectional interests, is so much fostered by the extent of our territory. These interests, represented by candidates for the Presidency, are constantly prone, in the zeal of party and selfish objects, to generate influences, unmindful of the general good, and forgetful of the restraints which the great body of the people would enforce, if they were, in no contingency, to lose the right of expressing their will. The experience of our country from the formation of the government to the present day, demonstrates that the people cannot too soon adopt some stronger safeguard for their right to elect the highest officers known to the constitution, than is contained in that sacred instrument as it now stands."

CHAPTER CXXX.

ABOLITION OF SLAVERY IN THE DISTRICT OF COLUMBIA.

Mr. Buchanan presented the memorial of the religious society of "Friends," in the State of Pennsylvania, adopted at their Caln quarterly meeting, requesting Congress to abolish slavery and the slave trade, in the District of Columbia. He said the memorial did not emanate from fanatics, endeavoring to disturb the peace and security of society in the Southern States, by the distribution of incendiary publications, but from a society of Christians, whose object had always been to promote good-will and peace among men. It was entitled to respect from the character of the memorialists; but he dissented from the opinion which they expressed and the request which they made. The constitution recognized slavery; it existed here; was found here when the District was ceded to the United States; the slaves here were the property of the inhabitants; and he was opposed to the disturbance of their rights. Congress had no right to interfere with slavery in the States. That was determined in the first Congress that ever sat—in the Congress which commenced in 1789 and ended in 1791—and in the first session of that Congress. The Religious Society of Friends then petitioned Congress against slavery, and it was resolved, in answer to that petition, that Congress had no authority to interfere in the emancipation of slaves, or with their treatment, in any of the States: and that was the answer still to be given. He then adverted to the circumstances under which the memorial was presented. A number of fanatics, led on by foreign incendiaries, have been scattering firebrands through the Southern States—publications and pictures exciting the slaves to revolt, and to the destruction of their owners. Instead of benefiting the slaves by this conduct, they do them the greatest injury, causing the bonds to be drawn tighter upon them; and postponing emancipation even in those States which might eventually contemplate it. These were his opinions on slavery, and on the prayer of this memorial. He was opposed to granting the prayer, but was in favor of receiving the petition as the similar one had been received, in 1790, and giving it the same answer; and, he had no doubt, with the same happy effect of putting an end to such applications, and giving peace and quiet to the country. He could not vote for the motion of the senator from South Carolina, Mr. Calhoun, to reject it. He thought rejection would inflame the question: reception and condemnation would quiet it. Mr. Calhoun had moved to reject all petitions of the kind—not reject upon their merits, after consideration, but beforehand, when presented for reception. This was the starting point of a long and acrimonious contest in the two Houses of Congress, in which the right of petition was maintained on one side, and the good policy of quieting the question by reception and rejection: on the other side, it was held that the rights, the peace, and the dignity of the States required all anti-slavery petitions to be repulsed, at the first presentation, without reception or consideration. The author of this View aspired to no lead in conducting this question; he thought it was one to be settled by policy; that is to say, in the way that would soonest quiet it. He thought there was a clear line of distinction between mistaken philanthropists, and mischievous incendiaries—also between the free States themselves and the incendiary societies and individuals within them; and

took an early moment to express these opinions in order to set up the line between what was mistake and what was crime—and between the acts of individuals, on one hand, and of States, on the other; and in that sense delivered the following speech:

"Mr. Benton rose to express his concurrence in the suggestion of the senator from Pennsylvania (Mr. Buchanan), that the consideration of this subject be postponed until Monday. It had come up suddenly and unexpectedly to-day, and the postponement would give an opportunity for senators to reflect, and to confer together, and to conclude what was best to be done, where all were united in wishing the same end, namely, to allay, and not to produce, excitement. He had risen for this purpose; but, being on his feet he would say a few words on the general subject, which the presentation of these petitions had so suddenly and unexpectedly brought up. With respect to the petitioners, and those with whom they acted, he had no doubt but that many of them were good people, aiming at benevolent objects, and endeavoring to ameliorate the condition of one part of the human race, without inflicting calamities on another part; but they were mistaken in their mode of proceeding; and so far from accomplishing any part of their object, the whole effect of their interposition was to aggravate the condition of those in whose behalf they were interfering. But there was another part, and he meant to speak of the abolitionists, generally, as the body containing the part of which he spoke; there was another part whom he could not qualify as good people, seeking benevolent ends by mistaken means, but as incendiaries and agitators, with diabolical objects in view, to be accomplished by wicked and deplorable means. He did not go into the proofs now to establish the correctness of his opinion of this latter class, but he presumed it would be admitted that every attempt to work upon the passions of the slaves, and to excite them to murder their owners, was a wicked and diabolical attempt, and the work of a midnight incendiary. Pictures of slave degradation and misery, and of the white man's luxury and cruelty, were attempts of this kind; for they were appeals to the vengeance of slaves, and not to the intelligence or reason of those who legislated for them. He (Mr. B.) had had many pictures of this kind, as well as many diabolical publications, sent to him on this subject, during the last summer; the whole of which he had cast into the fire, and should not have thought of referring to the circumstance at this time, as displaying the character of the incendiary part of the abolitionists, had he not, within these few days past, and while abolition petitions were pouring into the other end of the Capitol, received one of these pictures, the design of which could be nothing but mischief of the blackest dye. It was a print from an engraving (and Mr. B. exhibited it, and handed it to senators near him), representing a large and spreading tree of liberty, beneath whose ample shade a slave owner was at one time luxuriously reposing, with slaves fanning him; at another, carried forth in a palanquin, to view the half-naked laborers in the cotton field, whom drivers, with whips, were scourging to the task. The print was evidently from the abolition mint, and came to him by some other conveyance than that of the mail, for there was no post-mark of any kind to identify its origin, and to indicate its line of march. For what purpose could such a picture be intended, unless to inflame the passions of slaves? And why engrave it, except to multiply copies for extensive distribution? But it was not pictures alone that operated upon the passions of the slaves, but speeches, publications, petitions presented in Congress, and the whole machinery of abolition societies. None of these things went to the understandings of the slaves, but to their passions, all imperfectly understood, and inspiring vague hopes, and stimulating abortive and fatal insurrections. Societies, especially, were the foundation of the greatest mischiefs. Whatever might be their objects, the slaves never did, and never can, understand them but in one way: as allies organized for action, and ready to march to their aid on the first signal of insurrection! It was thus that the massacre of San Domingo was made. The society in Paris, *Les Amis des Noirs*, Friends of the Blacks, with its affiliated societies throughout France and in London, made that massacre. And who composed that society? In the beginning, it comprised the extremes of virtue and of vice; it contained the best and the basest of human kind! Lafayette and the Abbé Gregoire, those purest of philanthropists; and Marat and Anacharsis Clootz, those imps of hell in human shape. In the end (for all such societies run the same career of de-

generation), the good men, disgusted with their associates, retired from the scene; and the wicked ruled at pleasure. Declamations against slavery, publications in gazettes, pictures, petitions to the constituent assembly, were the mode of proceeding; and the fish-women of Paris—he said it with humiliation, because American females had signed the petitions now before us—the fish-women of Paris, the very *poissardes* from the quays of the Seine, became the obstreperous champions of West India emancipation. The effect upon the French islands is known to the world; but what is not known to the world, or not sufficiently known to it, is that the same societies which wrapt in flames and drenched in blood the beautiful island, which was then a garden and is now a wilderness, were the means of exciting an insurrection upon our own continent: in Louisiana, where a French slave population existed, and where the language of *Les Amis des Noirs* could be understood, and where their emissaries could glide. The knowledge of this event (Mr. B. said) ought to be better known, both to show the danger of these societies, however distant, and though oceans may roll between them and their victims, and the fate of the slaves who may be excited to insurrection by them on any part of the American continent. He would read the notice of the event from the work of Mr. Charles Gayarre, lately elected by his native State to a seat on this floor, and whose resignation of that honor he sincerely regretted, and particularly for the cause which occasioned it, and which abstracted talent from a station that it would have adorned. Mr. B. read from the work, '*Essai Historique sur la Louisiane:*' 'The white population of Louisiana was not the only part of the population which was agitated by the French revolution. The blacks, encouraged without doubt by the success which their race had obtained in San Domingo, dreamed of liberty, and sought to shake off the yoke. The insurrection was planned at Pointe Coupeé, which was then an isolated parish, and in which the number of slaves was considerable. The conspiracy took birth on the plantation of Mr. Julien Poydras, a rich planter, who was then travelling in the United States, and spread itself rapidly throughout the parish. The death of all the whites was resolved. Happily the conspirators could not agree upon the day for the massacre; and from this disagreement resulted a quarrel, which led to the discovery of the plot. The militia of the parish immediately took arms, and the Baron de Carondelet caused them to be supported by the troops of the line. It was resolved to arrest, and to punish the principal conspirators. The slaves opposed it; but they were quickly dispersed, with the loss of twenty of their number killed on the spot. Fifty of the insurgents were condemned to death. Sixteen were executed in different parts of the parish; the rest were put on board a galley and hung at intervals, all along the river, as far as New Orleans (a distance of one hundred and fifty miles). The severity of the chastisement intimidated the blacks, and all returned to perfect order.'

"Resuming his remarks, Mr. B. said he had read this passage to show that our white population had a right to dread, nay, were bound to dread, the mischievous influence of these societies, even when an ocean intervened, and much more when they stood upon the same hemisphere, and within the bosom of the same country. He had also read it to show the miserable fate of their victims, and to warn all that were good and virtuous—all that were honest, but mistaken—in the three hundred and fifty affiliated societies, vaunted by the individuals who style themselves their executive committee, and who date, from the commercial emporium of this Union, their high manifesto against the President; to warn them at once to secede from associations which, whatever may be their designs, can have no other effect than to revive in the Southern States the tragedy, not of San Domingo, but of the parish of Pointe Coupeé.

"Mr. B. went on to say that these societies had already perpetrated more mischief than the joint remainder of all their lives spent in prayers of contrition, and in works of retribution, could ever atone for. They had thrown the state of the emancipation question fifty years back. They had subjected every traveller, and every emigrant, from the non-slaveholding States, to be received with coldness, and viewed with suspicion and jealousy, in the slaveholding States. They had occasioned many slaves to lose their lives. They had caused the deportation of many ten thousands from the grain-growing to the planting States. They had caused the privileges of all slaves to be curtailed, and their bonds to be more tightly drawn. Nor was the mischief

of their conduct confined to slaves; it reached the free colored people, and opened a sudden gulf of misery to that population. In all the slave States, this population has paid the forfeit of their intermediate position; and suffered proscription as the instruments, real or suspected, of the bolition societies. In all these States, their exodus had either been enforced or was impending. In Missouri there was a clause in the constitution which prohibited their emigration to the State; but that clause had remained a dead letter in the book until the agitation produced among the slaves by the distant rumbling of the abolition thunder, led to the knowledge in some instances, and to the belief in others, that these people were the antennæ of the abolitionists; and their medium for communicating with the slaves, and for exciting them to desertion first, and to insurrection eventually. Then ensued a painful scene. The people met, resolved, and prescribed thirty days for the exodus of the obnoxious caste. Under that decree a general emigration had to take place at the commencement of winter. Many worthy and industrious people had to quit their business and their homes, and to go forth under circumstances which rendered them objects of suspicion wherever they went, and sealed the door against the acquisition of new friends while depriving them of the protection of old ones. He (Mr. B.) had witnessed many instances of this kind, and had given certificates to several, to show that they were banished, not for their offences, but for their misfortunes; for the misfortune of being allied to the race which the abolition societies had made the object of their gratuitous philanthropy.

"Having said thus much of the abolition societies in the non-slaveholding States, Mr. B. turned, with pride and exultation, to a different theme—the conduct of the great body of the people in all these States. Before he saw that conduct, and while the black question, like a portentous cloud was gathering and darkening on the Northeastern horizon, he trembled, not for the South, but for the Union. He feared that he saw the fatal work of dissolution about to begin, and the bonds of this glorious confederacy about to snap; but the conduct of the great body of the people in all the non-slaveholding States quickly dispelled that fear, and in its place planted deep the strongest assurance of the harmony and indivisibility of the Union which he had felt for many years. Their conduct was above all praise, above all thanks, above all gratitude. They had chased off the foreign emissaries, silenced the gabbling tongues of female dupes, and dispersed the assemblages, whether fanatical, visionary, or incendiary, of all that congregated to preach against evils which afflicted others not them; and to propose remedies to aggravate the disease which they pretended to cure. They had acted with a noble spirit. They had exerted a vigor beyond all law. They had obeyed the enactments, not of the statute book, but of the heart; and while that spirit was in the heart, he cared nothing for laws written in a book. He would rely upon that spirit to complete the good work it has begun; to dry up these societies; to separate the mistaken philanthropist from the reckless fanatic and the wicked incendiary, and put an end to publications and petitions which, whatever may be their design, can have no other effect than to impede the object which they invoke, and to aggravate the evil which they deplore.

"Turning to the immediate question before the Senate, that of the rejection of the petitions, Mr. B. said his wish was to give that vote which would have the greatest effect in putting down these societies. He thought the vote to be given to be rather one of expediency than of constitutional obligation. The clause in the constitution so often quoted in favor of the right of petitioning for a redress of grievances would seem to him to apply rather to the grievances felt by ourselves than to those felt by others, and which others might think an advantage, what we thought a grievance. The petitioners from Ohio think it a grievance that the people of the District of Columbia should suffer the institution of slavery, and pray for the redress of that grievance; the people of the District think the institution an advantage, and want no redress; now, which has the right of petitioning? Looking to the past action of the Senate, Mr. B. saw that, about thirty years ago, a petition against slavery, and that in the States, was presented to this body by the society of Quakers in Pennsylvania and New Jersey; and that the same question upon its reception was made, and decided by yeas and nays, 19 to 9, in favor of receiving it. He read the names, to show that the senators from the slave and non-slaveholding States voted some for and some against the reception, accord

ing to each one's opinion, and not according to the position or the character of the State from which he came. Mr. B. repeated that he thought this question to be one of expediency, and that it was expedient to give the vote which would go furthest towards quieting the public mind. The quieting the South depended upon quieting the North; for when the abolitionists were put down in the former place, the latter would be at ease. It seemed to him, then, that the gentlemen of the non-slaveholding States were the proper persons to speak first. They knew the temper of their own constituents best, and what might have a good or an ill effect upon them, either to increase the abolition fever, or to allay it. He knew that the feeling of the Senate was general; that all wished for the same end; and the senators of the North as cordially as those of the South."

CHAPTER CXXXI.

MAIL CIRCULATION OF INCENDIARY PUBLICATIONS.

Mr. Calhoun moved that so much of the President's message as related to the mail transmission of incendiary publications be referred to a select committee. Mr. King, of Alabama, opposed the motion, urging that the only way that Congress could interfere would be by a post-office regulation; and that all such regulation properly referred itself to the committee on post-offices and post-roads. He did not look to the particular construction of the committee, but had no doubt the members of that committee could see the evil of these incendiary transmissions through the mails, and would provide a remedy which they should deem constitutional, proper and adequate; and he expressed a fear that, by giving the subject too much importance, an excitement might be got up. Mr. Calhoun replied that the Senator from Alabama had mistaken his object—that it was not to produce any unnecessary excitement, but to adopt such a course as would secure a committee which would calmly and dispassionately go into an examination of the whole subject; which would investigate the character of those publications, to ascertain whether they were incendiary or not; and, if so, on that ground to put a check on their transmission through the mails. He could not but express his astonishment at the objection which had been taken to his motion, for he knew that the Senator from Alabama felt that deep interest in the subject which pervaded the feelings of every man in the South. He believed that the post-office committee would be fully occupied with the regular business which would be brought before them; and it was this consideration, and no party feeling, which had induced him to make his motion. Mr. Grundy, chairman of the committee on post-offices and post-roads, said that his position was such as to have imposed silence upon him, if that silence might not have been misunderstood. In reply to the objection that a majority of the committee were not from the slave States, that circumstance might be an advantage; it might give the greater weight to their action, which it was known would be favorable to the object of the motion. He would say that the federal government could do but little on this subject except through a post-office regulation, and thereby aiding the efficiency of the State laws. He did not desire to see any power exercised which would have the least tendency to interfere with the sovereignty of the States. Mr. Calhoun adhering to his desire for a select committee, and expressing his belief that a great constitutional question was to be settled, and that the crisis required calmness and firmness, and the action of a committee that came mainly from the endangered part of the Union—his request was granted; and a committee of five appointed, composed as he desired; namely, Mr. Calhoun chairman, Mr. King of Georgia, Mr. Mangum of North Carolina, Mr. Davis of Massachusetts, and Mr. Lewis F. Linn of Missouri. A bill and a report were soon brought in by the committee—a bill subjecting to penalties any post-master who should knowingly receive and put into the mail any publication, or picture touching the subject of slavery, to go into any State or territory in which the circulation of such publication, or picture, should be forbid by the State laws. When the report was read Mr. Mangum moved the printing of 5000 extra copies of it. This motion brought a majority of the committee to their feet, to disclaim their assent to parts of the report; and to absolve themselves from responsibility for its contents. A conversational

debate ensued on this point, on which Mr. Davis, Messrs. King of Alabama and Georgia, Mr. Linn and Mr. Calhoun thus expressed themselves:

"Mr. Davis said that, as a motion had been made to print the paper purporting to be a report from the select committee of which he was a member, he would remark that the views contained in it did not entirely meet his approbation, though it contained many things which he approved of. He had risen for no other purpose than to make this statement, lest the impression should go abroad with the report that he assented to those portions of it which did not meet his approbation."

"Mr. King, of Georgia, said that, lest the same misunderstanding should go forth with respect to his views, he must state that the report was not entirely assented to by himself. However, the gentleman from South Carolina (Mr. Calhoun), in making this report, had already stated that the majority of the committee did not agree to the whole of it, though many parts of it were concurred in by all."

"Mr. Davis said he would add further, that he might have taken the usual course, and made an additional report, containing all his views on the subject, but thought it hardly worth while, and he had contented himself with making the statement that he had just made."

"Mr. King, of Alabama, said this was a departure from the usual course—by it a minority might dissent; and yet, when the report was published, it would seem to be a report of the committee of the Senate, and not a report of two members of it. It was proper that the whole matter should go together with the bill, that the report submitted by the minority might be read with the bill, to show that the reading of the report was not in conflict with the principles of the bill reported. He thought the senator from North Carolina (Mr. Mangum) had better modify his motion, so as to have the report and bill published together."

"Mr. Linn remarked that, being a member of the committee, it was but proper for him to say that he had assented to several parts of the report, though he did not concur with it in all its parts. Should it become necessary, he would, when the subject again came before the Senate, explain in what particulars he had coincided with the views given in the report, and how far he had dissented from them. The bill, he said, had met with his approbation."

"Mr. Calhoun said he hoped his friend from North Carolina would modify his motion, so as to include the printing of the bill with the report. It would be seen, by comparing both together, that there was no *non sequitur* in the bill, coming as it did after this report."

"Mr. King, of Alabama, had only stated his impressions from hearing the report and bill read. It appeared to him unusual that a report should be made by a minority, and merely acquiesced in by the committee, and that the bill should be adverse to it."

"Mr. Davis said the report was, as he understood it to be read from the chair, the report of the committee. He had spoken for himself only, and for nobody else, lest the impression might go abroad that he concurred in all parts of the report, when he dissented from some of them."

"Mr. Calhoun said that a majority of the committee did not concur in the report, though there were two members of it, himself and the gentleman from North Carolina, who concurred throughout; three other gentlemen concurred with the greater part of the report, though they dissented from some parts of it; and two gentlemen concurred also with some parts of it. As to the bill, two of the committee would have preferred a different one, though they had rather have that than none at all; another gentleman was opposed to it altogether. The bill, however, was a natural consequence of the report, and the two did not disagree with each other."

The parts of the report which were chiefly exceptionable were two: 1. The part which related to the nature of the federal government, as being founded in "compact;" which was the corner-stone of the doctrine of nullification, and its corollary that the laws of nations were in full force between the several States, as sovereign and independent communities except as modified by the compact; 2. The part that argued, as upon a subsisting danger, the evils by an abolition of slavery in the slave States by interference from other States. On the first of these points the report said:

"That the States which form our Federal Union are sovereign and independent communities, bound together by a constitutional compact, and are possessed of all the powers belonging to distinct and separate States, excepting such as are delegated to be exercised by the general government, is assumed as unquestionable. The compact itself expressly provides that all powers not delegated are reserved to the States and the people. To ascertain, then, whether the power in question is delegated or reserved, it is only necessary to ascertain whether it is to be found among the enumerated powers or not. If it be not among them, it belongs, of course, to the reserved powers. On turning to the constitution, it will be seen that, while the power of defending the country against external danger is found among the enumerated, the instrument is wholly silent as to the power of defending the internal peace and security of the States; and of course, reserves to the States this important power, as it stood before the adoption of the constitution, with no other limitation, as has been stated, except such as are expressly prescribed by the instrument

itself. From what has been stated, it may be inferred that the right of a State to defend itself against internal dangers is a part of the great, primary, and inherent right of self-defence, which, by the laws of nature, belongs to all communities; and so jealous were the States of this essential right, without which their independence could not be preserved, that it is expressly provided by the constitution, that the general government shall not assist a State, even in case of domestic violence, except on the application of the authorities of the State itself; thus excluding, by a necessary consequence, its interference in all other cases.

"Having now shown that it belongs to the slaveholding States, whose institutions are in danger, and not to Congress, as is supposed by the message, to determine what papers are incendiary and intended to excite insurrection among the slaves, it remains to inquire, in the next place, what are the corresponding duties of the general government, and the other States, from within whose limits and jurisdiction their institutions are attacked; a subject intimately connected with that with which the committee are immediately charged, and which, at the present juncture, ought to be fully understood by all the parties. The committee will begin with the first. It remains next to inquire into the duty of the States from within whose limits and jurisdiction the internal peace and security of the slaveholding States are endangered. In order to comprehend more fully the nature and extent of their duty, it will be necessary to make a few remarks on the relations which exist between the States of our Federal Union, with the rights and obligations reciprocally resulting from such relations. It has already been stated that the States which compose our Federal Union are sovereign and independent communities, united by a constitutional compact. Among its members the laws of nations are in full force and obligation, except as altered or modified by the compact; and, of course, the States possess, with that exception, all the rights, and are subject to all the duties, which separate and distinct communities possess, or to which they are subject. Among these are comprehended the obligation which all States are under to prevent their citizens from disturbing the peace or endangering the security of other States; and in case of being disturbed or endangered, the right of the latter to demand of the former to adopt such measures as will prevent their recurrence, and if refused or neglected, to resort to such measures as its protection may require. This right remains, of course, in force among the States of this Union, with such limitations as are imposed expressly by the constitution. Within their limits, the rights of the slaveholding States are as full to demand of the States within whose limits and jurisdiction their peace is assailed, to adopt the measures necessary to prevent the same, and if refused or neglected, to resort to means to protect themselves, as if they were separate and independent communities."

This part of the report was that which, in founding the federal government in compact, as under the old articles of the confederation, and in bringing the law of nations to apply between the States as independent and sovereign communities, except where limited by the compact, was supposed to contain the doctrine of nullification and secession; and the concluding part of the report is an argument in favor of the course recommended in the *Crisis* in the event that New-York, Massachusetts, and Pennsylvania did not suppress the abolition societies. The report continues:

"Their professed object is the emancipation of slaves in the Southern States, which they propose to accomplish through the agencies of organized societies, spread throughout the non-slaveholding States, and a powerful press, directed mainly to excite, in the other States, hatred and abhorrence against the institutions and citizens of the slaveholding States, by addresses, lectures, and pictorial representations, abounding in false and exaggerated statements. If the magnitude of the mischief affords, in any degree, the measure by which to judge of the criminality of a project, few have ever been devised to be compared with the present, whether the end be regarded, or the means by which it is proposed to be accomplished. The blindness of fanaticism is proverbial. With more zeal than understanding, it constantly misconceives the nature of the object at which it aims, and towards which it rushes with headlong violence, regardless of the means by which it is to be effected. Never was its character more fully exemplified than in the present instance. Setting out with the abstract principle that slavery is an evil, the fanatical zealots come at once to the conclusion that it is their duty to abolish it, regardless of all the disasters which must follow. Never was conclusion more false or dangerous. Admitting their assumption, there are innumerable things which, regarded in the abstract, are evils, but which it would be madness to attempt to abolish. Thus regarded, government itself is an evil, with most of its institutions intended to protect life and property, comprehending the civil as well as the criminal and military code, which are tolerated only because to abolish them would be to increase instead of diminishing the evil. The reason is equally applicable to the case under consideration, to illustrate which, a few remarks on slavery, as it actually exists in the Southern States, will be necessary.

"He who regards slavery in those States simply under the relation of master and slave, as important as that relation is, viewed merely as a

question of property to the slaveholding section of the Union, has a very imperfect conception of the institution, and the impossibility of abolishing it without disasters unexampled in the history of the world. To understand its nature and importance fully, it must be borne in mind that slavery, as it exists in the Southern States (including under the Southern all the slaveholding States), involves not only the relation of master and slave, but, also, the social and political relations of two races, of nearly equal numbers, from different quarters of the globe, and the most opposite of all others in every particular that distinguishes one race of men from another. Emancipation would destroy these relations—would divest the masters of their property, and subvert the relation, social and political, that has existed between the races from almost the first settlement of the Southern States. It is not the intention of the committee to dwell on the pecuniary aspect of this vital subject, the vast amount of property involved, equal at least to $950,000,000; the ruin of families and individuals; the impoverishment and prostration of an entire section of the Union, and the fatal blow that would be given to the productions of the great agricultural staples, on which the commerce, the navigation, the manufactures, and the revenue of the country, almost entirely depend. As great as these disasters would be, they are nothing, compared to what must follow the subversion of the existing relation between the two races, to which the committee will confine their remarks. Under this relation, the two races have long lived in peace and prosperity, and if not disturbed, would long continue so to live. While the European race has rapidly increased in wealth and numbers, and at the same time has maintained an equality, at least, morally and intellectually, with their brethren of the non-slaveholding States; the African race has multiplied with not less rapidity, accompanied by great improvement, physically and intellectually, and the enjoyment of a degree of comfort with which the laboring class in few countries can compare, and confessedly greatly superior to what the free people of the same race possess in the non-slaveholding States. It may, indeed, be safely asserted, that there is no example in history in which a savage people, such as their ancestors were when brought into the country, have ever advanced in the same period so rapidly in numbers and improvement. To destroy the existing relations would be to destroy this prosperity, and to place the two races in a state of conflict, which must end in the expulsion or extirpation of one or the other. No other can be substituted, compatible with their peace or security. The difficulty is in the diversity of the races. So strongly drawn is the line between the two, in consequence of it, and so strengthened by the force of habit, and education, that it is impossible for them to exist together in the same community, where their numbers are so nearly equal as in the slaveholding States, under any other relation than which now exists. Social and political equality between them is impossible. No power on earth can overcome the difficulty. The causes resisting lie too deep in the principles of our nature to be surmounted. But, without such equality, to change the present condition of the African race, were it possible, would be but to change the form of slavery. It would make them the slaves of the community, instead of the slaves of individuals, with less responsibility and interest in their welfare on the part of the community than is felt by their present masters; while it would destroy the security and independence of the European race, if the African should be permitted to continue in their changed condition within the limits of those States. They would look to the other States for support and protection, and would become, virtually, their allies and dependents; and would thus place in the hands of those States the most effectual instrument to destroy the influence and control the destiny of the rest of the Union. It is against this relation between the two races that the blind and criminal zeal of the abolitionists is directed—a relation that now preserves in quiet and security more than 6,500,000 of human beings, and which cannot be destroyed without destroying the peace and prosperity of nearly half the States of the Union, and involving their entire population in a deadly conflict, that must terminate either in the expulsion or extirpation of those who are the object of the misguided and false humanity of those who claim to be their friends. He must be blind, indeed, who does not perceive that the subversion of a relation which must be followed with such disastrous consequences can only be effected by convulsions that would devastate the country, burst asunder the bonds of Union, and ingulf in a sea of blood the institutions of the country. It is madness to suppose that the slaveholding States would quietly submit to be sacrificed. Every consideration—interest, duty, and humanity, the love of country, the sense of wrong, hatred of oppressors, and treacherous and faithless confederates, and finally despair—would impel them to the most daring and desperate resistance in defence of property, family, country, liberty, and existence. But wicked and cruel as is the end aimed at, it is fully equalled by the criminality of the means by which it is proposed to be accomplished. These, as has been stated, consist in organized societies and a powerful press, directed mainly with a view to excite the bitterest animosity and hatred of the people of the non-slaveholding States against the citizens and institutions of the slaveholding States. It is easy to see to what disastrous results such means must tend. Passing over the more obvious effects, their tendency to excite to insurrection and servile war, with all its horrors, and the necessity which such tendency must impose on the slaveholding States to resort to the most rigid discipline and severe police, to the great

injury of the present condition of the slaves, there remains another, threatening incalculable mischief to the country. The inevitable tendency of the means to which the abolitionists have resorted to effect their object must, if persisted in, end in completely alienating the two great sections of the Union. The incessant action of hundreds of societies, and a vast printing establishment, throwing out daily thousands of artful and inflammatory publications, must make, in time, a deep impression on the section of the Union where they freely circulate, and are mainly designed to have effect. The well-informed and thoughtful may hold them in contempt, but the young, the inexperienced, the ignorant, and thoughtless, will receive the poison. In process of time, when the number of proselytes is sufficiently multiplied, the artful and profligate, who are ever on the watch to seize on any means, however wicked and dangerous, will unite with the fanatics, and make their movements the basis of a powerful political party, that will seek advancement by diffusing, as widely as possible, hatred against the slaveholding States. But, as hatred begets hatred, and animosity animosity, these feelings would become reciprocal, till every vestige of attachment would cease to exist between the two sections, when the Union and the constitution, the offspring of mutual affection and confidence, would forever perish. Such is the danger to which the movements of the abolitionists expose the country. If the force of the obligation is in proportion to the magnitude of the danger, stronger cannot be imposed, than is at present, on the States within whose limits the danger originates, to arrest its further progress—a duty they owe, not only to the States whose institutions are assailed, but to the Union and constitution, as has been shown, and, it may be added, to themselves.

The insidiousness of this report was in the assumption of an actual impending danger of the abolition of slavery in all the slave States—the destruction of nine hundred and fifty millions of property—the ocean of blood to be shed—the war of extermination between two races—and the necessity for extraordinary means to prevent these dire calamities; when the fact was, that there was not one particle of any such danger. The assumption was contrary to fact: the report was inflammatory and disorganizing: and if there was any thing enigmatical in its conclusions, it was sufficiently interpreted in the contemporaneous publications in the Southern slave States, which were open in their declarations that a cause for separation had occurred, umited only by the conduct of the free States in suppressing within a given time the incendiary societies within their borders. This limitation would throw the responsibility of disunion upon the non-slaveholding States failing to suppress these societies: for disunion, in that case, was foreshadowed in another part of this report, and fully avowed in contemporary Southern publications. Thus the report said:

"Those States, on the other hand, are not only under all the obligations which independent communities would be, to adopt such measures, but also under the obligation which the constitution superadds, rendered more sacred, if possible, by the fact that, while the Union imposes restrictions on the right of the slaveholding States to defend themselves, it affords the medium through which their peace and security are assailed. It is not the intention of the committee to inquire what those restrictions are, and what are the means which, under the constitution, are left to the slaveholding States to protect themselves. The period has not yet come, and they trust never will, when it may be necessary to decide those questions; but come it must, unless the States whose duty it is to suppress the danger shall see in time its magnitude and the obligations which they are under to adopt speedy and effectual measures to arrest its further progress. That the full force of this obligation may be understood by all parties, the committee propose, in conclusion, to touch briefly on the movements of the abolitionists, with the view of showing the dangerous consequences to which they must lead if not arrested."

These were ominous intimations, to receive their full interpretation elsewhere, and indissolubly connecting themselves with the late disunion attitude of South Carolina—the basis of discontent only changed. Mr. King of Georgia said that positions had been assumed and principles insisted upon by Mr. Calhoun, not only inconsistent with the bill reported, but he thought inconsistent with the "existence of the Union itself, and which if established and carried into practice, must hastily end in its dissolution." Mr. Calhoun in his reply pretty well justified these conclusions of the Georgia senator. He made it a point that the non-slaveholding States had done nothing yet to suppress the incendiary societies within their limits; and joining that non-action of these States with a refusal of Congress to pass this bill, he looked upon it as in vain to expect security or protection for the slaveholding States except from themselves—from State interposition, as authorized in the Virginia resolutions of 1798; and as recently carried out by South Carolina in her nullification proceedings; and

declared that nothing was wanted but "concert" among themselves to place their domestic institutions, their peace and security under their own protection and beyond the reach of danger. All this was thus intelligibly, and ominously stated in his reply to Mr. King:

"Thus far (I say it with regret) our just hopes have not been realized. The legislatures of the South, backed by the voice their constituents expressed through innumerable meetings, have called upon the non-slaveholding States to repress the movements made within the jurisdiction of those States against their peace and security. Not a step has been taken; not a law has been passed, or even proposed; and I venture to assert that none will be; not but what there is a favorable disposition towards us in the North, but I clearly see the state of political parties there presents insuperable impediments to any legislation on the subject. I rest my opinion on the fact that the non-slaveholding States, from the elements of their population, are, and will continue to be, divided and distracted by parties of nearly equal strength; and that each will always be ready to seize on every movement of the other which may give them the superiority, without much regard to consequences, as affecting their own States, and much less, remote and distant sections. Nor have we been less disappointed as to the proceedings of Congress. Believing that the general government has no right or authority over the subject of slavery, we had just grounds to hope Congress would refuse all jurisdiction in reference to it, in whatever form it might be presented. The very opposite course has been pursued. Abolition petitions have not only been received in both Houses, but received on the most obnoxious and dangerous of all grounds—that we are bound to receive them; that is, to take jurisdiction of the question of slavery whenever the abolitionists may think proper to petition for its abolition, either here or in the States. Thus far, then, we of the slaveholding States have been grievously disappointed. One question still remains to be decided that is presented by this bill. To refuse to pass this bill would be virtually to co-operate with the abolitionists—would be to make the officers and agents of the post-office department in effect their agents and abettors in the circulation of their incendiary publications, in violation of the laws of the States. It is your unquestionable duty, as I have demonstrably proved, to abstain from their violation; and, by refusing or neglecting to discharge that duty, you would clearly enlist, in the existing controversy, on the side of the abolitionists against the Southern States. Should such be your decision, by refusing to pass this bill, I shall say to the people of the South, look to yourselves—you have nothing to hope from others. But I must tell the Senate, be your decision what it may, the South will never abandon the principles of this bill. If you refuse co-operation with our laws, and conflict should ensue between your and our law, the Southern States will never yield to the superiority of yours. We have a remedy in our hands, which, in such events, we shall not fail to apply. We have high authority for asserting that, in such cases, 'State interposition is the rightful remedy'—a doctrine first announced by Jefferson—adopted by the patriotic and republican State of Kentucky by a solemn resolution, in 1798, and finally carried out into successful practice on a recent occasion, ever to be remembered, by the gallant State which I, in part, have the honor to represent. In this well-tested and efficient remedy, sustained by the principles developed in the report and asserted in this bill, the slaveholding States have an ample protection. Let it be fixed, let it be riveted in every Southern mind, that the laws of the slaveholding States for the protection of their domestic institutions are paramount to the laws of the general government in regulation of commerce and the mail, and that the latter must yield to the former in the event of conflict; and that, if the government should refuse to yield, the States have a right to interpose, and we are safe. With these principles, nothing but concert would be wanting to bid defiance to the movements of the abolitionists, whether at home or abroad, and to place our domestic institutions, and, with them, our security and peace, under our own protection, and beyond the reach of danger."

These were very significant intimations. Congress itself was to become the ally of the abolitionists, and enlist in their cause, if it did not pass his bill, which was opposed by Southern senators and founded upon a minority report of a Southern committee selected by Mr. Calhoun himself. It was well known it was not to pass; and in view of that fact it was urged upon the South to nullify and secede.

Thus, within two short years after the "compromise" of 1833 had taken Mr. Calhoun out of the hands of the law, he publicly and avowedly relapsed into the same condition; recurring again to secession for a new grievance; and to be resorted to upon contingencies which he knew to be certain; and encouraged in this course by the success of the first trial of strength with the federal government. It has been told at the proper place—in the chapter which gave the secret history of the compromise of 1833—that Mr. Webster refused to go into that measure, saying that the time had come to try the strength of the constitution and of the government: and it now becomes proper to tell that Mr. Clay, after seeing the relapse of Mr. Calhoun, became

doubtful of the correctness of his own policy in that affair; and often said to his friends that, "in looking back upon the whole case, he had seriously doubted the policy of his interference." Certainly it was a most deplorable interference, arresting the process of the law when it was on the point of settling every thing without hurting a hair of any man's head, and putting an end to nullification for ever; and giving it a victory, real or fancied, to encourage a new edition of the same proceedings in a far more dangerous and pervading form. But to return to the bill before the Senate.

"Mr. Webster addressed the Senate at length in opposition to the bill, commencing his argument against what he contended was its vagueness and obscurity, in not sufficiently defining what were the publications the circulation of which it intended to prohibit. The bill provided that it should not be lawful for any deputy postmaster, in any State, territory, or district of the United States, knowingly to deliver to any person whatever, any pamphlet, newspaper, handbill, or other printed paper or pictorial representation, touching the subject of slavery, where, by the laws of the said State, district, or territory, their circulation was prohibited. Under this provision, Mr. W. contended that it was impossible to say what publications might not be prohibited from circulation. No matter what was the publication, whether for or against slavery, if it touched the subject in any shape or form, it would fall under the prohibition. Even the constitution of the United States might be prohibited; and the person who was clothed with the power to judge in this delicate matter was one of the deputy postmasters, who, notwithstanding the difficulties with which he was encompassed in coming to a correct decision, must decide correctly, under pain of being removed from office. It would be necessary, also, he said, for the deputy postmasters referred to in this bill, to make themselves acquainted with all the various laws passed by the States, touching the subject of slavery, and to decide on them, no matter how variant they might be with each other. Mr. W. also contended that the bill conflicted with that provision in the constitution which prohibited Congress from passing any law to abridge the freedom of speech or of the press. What was the liberty of the press? he asked. It was the liberty of printing as well as the liberty of publishing, in all the ordinary modes of publication; and was not the circulation of papers through the mails an ordinary mode of publication? He was afraid that they were in some danger of taking a step in this matter that they might hereafter have cause to regret, by its being contended that whatever in this bill applies to publications touching slavery, applies to other publications that the States might think proper to prohibit; and Congress might, under this example, be called upon to pass laws to suppress the circulation of political, religious, or any other description of publications which produced excitement in the States. Was this bill in accordance with the general force and temper of the constitution and its amendments? It was not in accordance with that provision of the instrument under which the freedom of speech and of the press was secured. Whatever laws the State legislatures might pass on the subject, Congress was restrained from legislating in any manner whatever, with regard to the press. It would be admitted, that if a newspaper came directed to him, he had a property in it; and how could any man, then, take that property and burn it without due form of law? and he did not know how this newspaper could be pronounced an unlawful publication, and having no property in it, without a legal trial. Mr. W. argued against the right to examine into the nature of publications sent to the post-office, and said that the right of an individual in his papers was secured to him in every free country in the world. In England, it was expressly provided that the papers of the subject shall be free from all unreasonable searches and seizures—language, he said, to be found in our constitution. This principle established in England, so essential to liberty, had been followed out in France, where the right of printing and publishing was secured in the fullest extent; the individual publishing being amenable to the laws for what he published; and every man printed and published what he pleased, at his peril. Mr. Webster went on, at some length, to show that the bill was contrary to that provision of the constitution which prohibits Congress to pass any law abridging the freedom of speech or of the press."

Mr. Clay spoke against the bill, saying:

"The evil complained of was the circulation of papers having a certain tendency. The papers, unless circulated, did no harm, and while in the post-office or in the mail, they were not circulated—it was the circulation solely which constituted the evil. It was the taking them out of the mail, and the use that was to be made of them, that constituted the mischief. Then it was perfectly competent to the State authorities to apply the remedy. The instant that a prohibited paper was handed out, whether to a citizen or sojourner, he was subject to the laws which might compel him either to surrender them or burn them. He considered the bill not only unnecessary, but as a law of a dangerous, if not a doubtful, authority. It was objected that it was vague and indefinite in its character; and how is that objection got over? The bill provided that it shall not be lawful for any deputy postmaster, in any State, territory, or district of the United States, knowingly to deliver to any person whatever, any pamphlet, newspa-

per, handbill, or other printed paper or pictorial representation, touching the subject of slavery, where, by the laws of the said State, territory, or district, their circulation is prohibited. Now, what could be more vague and indefinite than this description? Now, could it be decided, by this description, what publications should be withheld from distribution? The gentleman from Pennsylvania said that the laws of the States would supply the omission. He thought the senator was premature in saying that there would be precision in State laws, before he showed it by producing the law. He had seen no such law, and he did not know whether the description in the bill was applicable or not. There was another objection to this part of the bill; it applied not only to the present laws of the States, but to any future laws that might pass. Mr. C. denied that the bill applied to the slaveholding States only; and went on to argue that it could be applied to all the States, and to any publication touching the subject of slavery whatever, whether for or against it, if such publication was only prohibited by the laws of such State. Thus, for instance, a non-slaveholding State might prohibit publications in defence of the institution of slavery, and this bill would apply to it as well as to the laws of the slaveholding States; but the law would be inoperative: it declared that the deputy postmaster should not be amenable, unless he knowingly shall deliver, &c. Why, the postmaster might plead ignorance, and of course the law would be inoperative.

"But he wanted to know whence Congress derived the power to pass this law. It was said that it was to carry into effect the laws of the States. Where did they get such authority? He thought that their only authority to pass laws was in pursuance of the constitution; but to pass laws to carry into effect the laws of the States, was a most prolific authority, and there was no knowing where it was to stop; it would make the legislation of Congress dependent upon the legislation of twenty-four different sovereignties. He thought the bill was of a most dangerous tendency. The senator from Pennsylvania asked if the post-office power did not give them the right to regulate what should be carried in the mails. Why, there was no such power as that claimed in the bill; and if they passed such a law, it would be exercising a most dangerous power. Why, if such doctrine prevailed, the government might designate the persons, or parties, or classes, who should have the benefit of the mails, excluding all others."

At last the voting came on; and, what looks sufficiently curious on the outside view, there were three tie votes successively—two on amendments, and one on the engrossment of the bill. The two ties on amendments stood fifteen to fifteen—the absentees being eighteen: one third of the Senate: the tie on engrossment was eighteen to eighteen—the absentees being twelve: one fourth of the Senate. It was Mr. Calhoun who called for the yeas and nays on each of these questions. It was evident that there was a design to throw the bill into the hands of the Vice-President—a New-Yorker, and the prominent candidate for the presidency. In committee of the whole he did not vote in the case of a tie; but it was necessary to establish an equilibrium of votes there to be ready for the immediate vote in Senate on the engrossment; and when the committee tie was deranged by the accession of three votes on one side, the equilibrium was immediately re-established by three on the other. Mr. Van Buren, at the moment of this vote (on the engrossment) was out of the chair, and walking behind the colonnade back of the presiding officer's chair. My eyes were wide open to what was to take place. Mr. Calhoun, not seeing him, eagerly and loudly asked where was the Vice-President? and told the Sergeant-at-arms to look for him. But he needed no looking for. He was within hearing of all that passed, and ready for the contingency: and immediately stepping up to his chair, and standing up, promptly gave the casting vote in favor of the engrossment. I deemed it a political vote, that is to say, given from policy; and I deemed it justifiable under the circumstances. Mr. Calhoun had made the rejection of the bill a test of alliance with Northern abolitionists, and a cause for the secession of the Southern States: and if the bill had been rejected by Van Buren's vote, the whole responsibility of its loss would have been thrown upon him and the North; and the South inflamed against those States and himself—the more so as Mr. White, of Tennessee, the opposing democratic candidate for the presidency, gave his votes for the bill. Mr. Wright also, as I believe, voted politically, and on all the votes both in the committee and the Senate. He was the political and the personal friend of the Vice-President, most confidential with him, and believed to be the best index to his opinions. He was perfectly sensible of his position, and in every vote on the subject voted with Mr. Calhoun. Several other senators voted politically, and without compunction, although it was a bad bill, as it was known it would not pass. The author of this View would not so vote. He was tired of the

eternal cry of dissolving the Union—did not believe in it—and would not give a repugnant vote to avoid the trial. The tie vote having been effected, and failed of its expected result, the Senate afterwards voted quite fully on the final passage of the bill, and rejected it—twenty-five to nineteen: only four absent. The yeas were: Messrs. Black, Bedford, Brown, Buchanan, Calhoun, Cuthbert of Georgia, Grundy, King of Alabama. King of Georgia, Mangum, Moore, Nicholas of Louisiana, Alexander Porter, Preston of South Carolina, Rives, Robinson, Tallmadge, Walker of Mississippi, White of Tennessee, Silas Wright. The nays were: Messrs. Benton, Clay, Crittenden, Davis of Massachusetts, Ewing of Illinois, Ewing of Ohio, Goldsborough of Maryland, Hendricks, Hubbard, Kent, Knight, Leigh, McKean of Pennsylvania, Thomas Morris of Ohio, Naudain of Delaware, Niles of Connecticut, Prentiss, Ruggles, Shepley, Southard, Swift, Tipton, Tomlinson, Wall of New Jersey, Webster: majority six against the bill; and seven of them, if the solecism may be allowed, from the slave States. And thus was accomplished one of the contingencies in which "State interposition" was again to be applied—the "rightful remedy of nullification" again resorted to—and the "domestic institutions" of the Southern States, by "concert" among themselves, "to be placed beyond the reach of danger."

CHAPTER CXXXII.

FRENCH AFFAIRS—APPROACH OF A FRENCH SQUADRON—APOLOGY REQUIRED.

In his annual message at the commencement of the session the President gave a general statement of our affairs with France, and promised a special communication on the subject at an early day. That communication was soon made, and showed a continued refusal on the part of France to pay the indemnity, unless an apology was first made; and also showed that a French fleet was preparing for the American seas, under circumstances which implied a design either to overawe the American government, or to be ready for expected hostilities. On the subject of the apology, the message said:

"Whilst, however, the government of the United States was awaiting the movements of the French government, in perfect confidence that the difficulty was at an end, the Secretary of State received a call from the French chargé d'affaires in Washington, who desired to read to him a letter he had received from the French minister of foreign affairs. He was asked whether he was instructed or directed to make any official communication, and replied that he was only authorized to read the letter, and furnish a copy if requested. It was an attempt to make known to the government of the United States, privately, in what manner it could make explanations, apparently voluntary, but really dictated by France, acceptable to her, and thus obtain payment of the twenty-five millions of francs. No exception was taken to this mode of communication, which is often used to prepare the way for official intercourse; but the suggestions made in it were, in their substance, wholly inadmissible. Not being in the shape of an official communication to this government, it did not admit of reply or official notice; nor could it safely be made the basis of any action by the Executive or the legislature; and the Secretary of State did not think proper to ask a copy, because he could have no use for it."

One cannot but be struck with the extreme moderation with which the President gives the history of this private attempt to obtain a dictated apology from him. He recounts it soberly and quietly, without a single expression of irritated feeling; and seems to have met and put aside the attempt in the same quiet manner. It was a proof of his extreme indisposition to have any collision with France, and of his perfect determination to keep himself on the right side in the controversy, whatever aspect it might assume. But that was not the only trial to which his temper was put. The attempt to obtain the apology being civilly repulsed, and the proffered copy of the dictated terms refused to be taken, an attempt was made to get that copy placed upon the archives of the government, with the view to its getting to Congress, and through Congress to the people; to become a point of attack upon the President for not giving the apology, and thereby getting the money from France, and returning to friendly relations with her. Of this attempt to get a refused paper upon our archives, and to make it operate as an appeal to the people against their own government, the President (still preserving all his moderation), gives this account:

"Copies of papers, marked Nos. 9, 10, and 11

show an attempt on the part of the French chargé d'affaires, many weeks afterwards, to place a copy of this paper among the archives of this government, which for obvious reasons, was not allowed to be done; but the assurance before given was repeated, that any official communication which he might be authorized to make in the accustomed form would receive a prompt and just consideration. The indiscretion of this attempt was made more manifest by the subsequent avowal of the French chargé d'affaires, that the object was to bring the letter before Congress and the American people. If foreign agents, on a subject of disagreement between their government and this, wish to prefer an appeal to the American people, they will hereafter, it is hoped, better appreciate their own rights, and the respect due to others, than to attempt to use the Executive as the passive organ of their communications. It is due to the character of our institutions that the diplomatic intercourse of this government should be conducted with the utmost directness and simplicity, and that, in all cases of importance, the communications received or made by the Executive should assume the accustomed official form. It is only by insisting on this form that foreign powers can be held to full responsibility; that their communications can be officially replied to; or that the advice or interference of the legislature can, with propriety, be invited by the President. This course is also best calculated, on the one hand, to shield that officer from unjust suspicions; and, on the other, to subject this portion of his acts to public scrutiny, and, if occasion shall require it, to constitutional animadversion. It was the more necessary to adhere to these principles in the instance in question, inasmuch as, in addition to other important interests, it very intimately concerned the national honor; a matter, in my judgment, much too sacred to be made the subject of private and unofficial negotiation."

Having shown the state of the question, the President next gave his opinion of what ought to be done by Congress; which was, the interdiction of our ports to the entry of French vessels and French products:—a milder remedy than that of reprisals which he had recommended at the previous session. He said:

"It is time that this unequal position of affairs should cease, and that legislative action should be brought to sustain Executive exertion in such measures as the case requires. While France persists in her refusal to comply with the terms of a treaty, the object of which was, by removing all causes of mutual complaint, to renew ancient feelings of friendship, and to unite the two nations in the bonds of amity, and of a mutually beneficial commerce, she cannot justly complain if we adopt such peaceful remedies as the law of nations and the circumstances of the case may authorize and demand. Of the nature of these remedies I have heretofore had occasion to speak; and, in reference to a particular contingency, to express my conviction that reprisals would be best adapted to the emergency then contemplated. Since that period, France, by all the departments of her government, has acknowledged the validity of our claims and the obligations of the treaty, and has appropriated the moneys which are necessary to its execution; and though payment is withheld on grounds vitally important to our existence as an independent nation, it is not to be believed that she can have determined permanently to retain a position so utterly indefensible. In the altered state of the questions in controversy, and under all existing circumstances, it appears to me that, until such a determination shall have become evident, it will be proper and sufficient to retaliate her present refusal to comply with her engagements by prohibiting the introduction of French products and the entry of French vessels into our ports. Between this and the interdiction of all commercial intercourse, or other remedies, you, as the representatives of the people, must determine. I recommend the former, in the present posture of our affairs, as being the least injurious to our commerce, and as attended with the least difficulty of returning to the usual state of friendly intercourse, if the government of France shall render us the justice that is due; and also as a proper preliminary step to stronger measures, should their adoption be rendered necessary by subsequent events."

This interdiction of the commerce of France, though a milder measure than that of reprisals, would still have been a severe one—severe at any time, and particularly so since the formation of this treaty, the execution of which was so much delayed by France; for that was a treaty of two parts—something to be done on each side. On the part of France to pay us indemnities: on our side to reduce the duties on French wines: and this reduction had been immediately made by Congress, to take effect from the date of the ratification of the treaty; and the benefit of that reduction had now been enjoyed by French commerce for near four years. But that was not the only benefit which this treaty brought to France from the good feeling it produced in America: it procured a discrimination in favor of silks imported from this side of the Cape of Good Hope—a discrimination inuring, and intended to inure, to the benefit of France. The author of this View was much instrumental in procuring that discrimination, and did it upon conversations with the then resident French minister at Washington, and founding his argu-

ment upon data derived from him. The data were to show that the discrimination would be beneficial to the trade of both countries; but the inducing cause was good-will to France, and a desire to bury all recollection of past differences in our emulation of good works. This view of the treaty, and a statement of the advantages which France had obtained from it, was well shown by Mr. Buchanan in his speech in support of the message on French affairs; in which he said:

"The government of the United States proceeded immediately to execute their part of the treaty. By the act of the 13th July, 1832, the duties on French wines were reduced according to its terms, to take effect from the day of the exchange of ratifications. At the same session, the Congress of the United States, impelled, no doubt, by their kindly feelings towards France, which had been roused into action by what they believed to be a final and equitable settlement of all our disputes, voluntarily reduced the duty upon silks coming from this side of the Cape of Good Hope, to five per cent., whilst those from beyond were fixed at ten per cent. And at the next session, on the 2d of March, 1833, this duty of five per cent. was taken off altogether; and ever since, French silks have been admitted into our country free of duty. There is now, in fact, a discriminating duty of ten per cent. in their favor, over silks from beyond the Cape of Good Hope.

"What has France gained by these measures in duties on her wines and her silks, which she would otherwise have been bound to pay? I have called upon the Secretary of the Treasury, for the purpose of ascertaining the amount. I now hold in my hand a tabular statement, prepared at my request, which shows, that had the duties remained what they were, at the date of the ratification of the treaty, these articles, since that time, would have paid into the Treasury, on the 30th September, 1834, the sum of $3,061,525. Judging from the large importations which have since been made, I feel no hesitation in declaring it as my opinion, that, at the present moment, these duties would amount to more than the whole indemnity which France has engaged to pay to our fellow-citizens. Before the conclusion of the ten years mentioned in the treaty, she will have been freed from the payment of duties to an amount considerably above twelve millions of dollars."

It is almost incomprehensible that there should have been such delay in complying with a treaty on the part of France bringing her such advantages; and it is due to the King, Louis Philippe to say, that he constantly referred the delay to the difficulty of getting the appropriation through the French legislative chambers. He often applied for the appropriation, but could not venture to make it an administration question; and the offensive demand for the apology came from that quarter, in the shape of an unprecedentd proviso to the law (when it did pass), that the money was not to be paid until there had been an apology. The only objection to the King's conduct was that he did not make the appropriation a cabinet measure, and try issues with the chambers; but that objection has become less since; and in fact totally disappeared, from seeing a few years afterwards, the ease with which the King was expelled from his throne, and how unable he was to try issues with the chambers. The elder branch of the Bourbons, and all their adherents, were unfriendly to the United States, considering the American revolution as the cause of the French revolution; and consequently the source of all their twenty-five years of exile, suffering and death. The republicans were also inimical to him, and sided with the legitimists.

The President concluded his message with stating that a large French naval armament was under orders for our seas; and said:

"Of the cause and intent of these armaments I have no authentic information, nor any other means of judging, except such as are common to yourselves and to the public; but whatever may be their object, we are not at liberty to regard them as unconnected with the measures which hostile movements on the part of France may compel us to pursue. They at least deserve to be met by adequate preparations on our part, and I therefore strongly urge large and speedy appropriations for the increase of the navy, and the completion of our coast defences.

"If this array of military force be really designed to affect the action of the government and people of the United States on the questions now pending between the two nations, then indeed would it be dishonorable to pause a moment on the alternative which such a state of things would present to us. Come what may, the explanation which France demands can never be accorded; and no armament, however powerful and imposing, at a distance, or on our coast, will, I trust, deter us from discharging the high duties which we owe to our constituents, to our national character, and to the world."

Mr. Buchanan sustained the message in a careful and well-considered review of this whole French question, showing that the demand of an apology was an insult in aggravation of the injury, and could not be given without national degradation; joining the President in his call

for measures for preserving the rights and honor of the country; declaring that if hostilities came they were preferable to disgrace, and that the whole world would put the blame on France. Mr. Calhoun took a different view of it, declaring that the state of our affairs with France was the effect of the President's mismanagement, and that if war came it would be entirely his fault; and affirmed his deliberate belief that it was the President's design to have war with France. He said:

"I fear that the condition in which the country is now placed has been the result of a deliberate and systematic policy. I am bound to speak my sentiments freely. It is due to my constitutents and the country, to act with perfect candor and truth on a question in which their interests is so deeply involved. I will not assert that the Executive has deliberately aimed at war from the commencement; but I will say that, from the beginning of the controversy to the present moment, the course which the President has pursued is precisely the one calculated to terminate in a conflict between the two nations. It has been in his power, at every period, to give the controversy a direction by which the peace of the country might be preserved, without the least sacrifice of reputation or honor; but he has preferred the opposite. I feel (said Mr. C.) how painful it is to make these declarations; how unpleasant it is to occupy a position which might, by any possibility, be construed in opposition to our country's cause; but, in my conception, the honor and the interests of the country can only be maintained by pursuing the course that truth and justice may dictate. Acting under this impression, I do not hesitate to assert, after a careful examination of the documents connected with this unhappy controversy, that, if war must come, we are the authors—we are the responsible party. Standing, as I fear we do, on the eve of a conflict, it would to me have been a source of pride and pleasure to make an opposite declaration; but that sacred regard to truth and justice, which, I trust, will ever be my guide under the most difficult circumstances, would not permit."

Mr. Benton maintained that it was the conduct of the Senate at the last session which had given to the French question its present and hostile aspect: that the belief of divided counsels, and of a majority against the President, and that we looked to money and not to honor, had encouraged the French chambers to insult us by demanding an apology, and to attempt to intimidate us by sending a fleet upon our coasts. He said:

"It was in March last that the three millions and the fortification bill were lost; since then the whole aspect of the French question is changed. The money is withheld, and explanation is demanded, an apology is prescribed, and a French fleet approaches. Our government, charged with insulting France, when no insult was intended by us, and none can be detected in our words by her, is itself openly and vehemently insulted. The apology is to degrade us; the fleet to intimidate us; and the two together constitute an insult of the gravest character. There in no parallel to it, except in the history of France herself; but not France of the 19th century, nor even of the 18th, but in the remote and ill-regulated times of the 17th century, and in the days of the proudest of the French Kings, and towards one of the smallest Italian republics. I allude, sir, to what happened between Louis XIV. and the Doge of Genoa, and will read the account of it from the pen of Voltaire, in his Age of Louis XIV.

"'The Genoese had built four galleys for the service of Spain; the King (of France) forbade them, by his envoy, St. Olon, one of his gentlemen in ordinary, to launch those galleys. The Genoese, incensed at this violation of their liberties, and depending too much on the support of Spain, refused to obey the order. Immediately fourteen men of war, twenty galleys, ten bomb-ketches, with several frigates, set sail from the port of Toulon. They arrived before Genoa, and the ten bomb-ketches discharged 14,000 shells into the town, which reduced to ashes a principal part of those marble edifices which had entitled this city to the name of Genoa the Proud. Four thousand men were then landed, who marched up to the gates, and burnt the suburb of St. Peter, of Arena. It was now thought prudent to submit, in order to prevent the total destruction of the city. The King exacted that the Doge of Genoa, with four of the principal senators, should come and implore his clemency in the palace of Versailles; and, lest the Genoese should elude the making this satisfaction, and lessen in any manner the pomp of it, he insisted further that the Doge, who was to perform this embassy, should be continued in his magistracy, notwithstanding the perpetual law of Genoa, which deprives the Doge of his dignity who is absent but a moment from the city. Imperialo Lercaro, Doge of Genoa, attended by the senators Lomellino, Garibaldi, Durazzo, and Salvago, repaired to Versailles, to submit to what was required of him. The Doge appeared in his robes of state, his head covered with a bonnet of red velvet, which he often took off during his speech; made his apology, the very words and demeanor of which were dictated and prescribed to him by Seignelai,' (the French Secretary of State for Foreign Affairs).

"Thus, said Mr. B., was the city of Genoa, and its Doge, treated by Louis XIV. But it was not the Doge who was degraded by this indignity, but the republic of which he was chief magistrate, and all the republics of Italy,

besides, which felt themselves all humbled by the outrage which a king had inflicted upon one of their number. So of the apology demanded, and of the fleet sent upon us, and in presence of which President Jackson, according to the *Constitutionnel*, is to make his decision, and to remit it to the Tuileries. It is not President Jackson that is outraged, but the republic of which he is President; and all existing republics, wheresoever situated. Our whole country is insulted, and that is the feeling of the whole country; and this feeling pours in upon us every day, in every manner in which public sentiment can be manifested, and especially in the noble resolves of the States whose legislatures are in session, and who hasten to declare their adherence to the policy of the special message. True, President Jackson is not required to repair to the Tuileries, with four of his most obnoxious senators, and there recite, in person, to the King of the French, the apology which he had first rehearsed to the Duke de Broglie; true, the bomb-ketches of Admiral Mackau have not yet fired 14,000 shells on one of our cities; but the mere demand for an apology, the mere dictation of its terms, and the mere advance of a fleet, in the present state of the world, and in the difference of parties, is a greater outrage to us than the actual perpetration of the enormities were to the Genoese. This is not the seventeenth century. President Jackson is not the Doge of a trading city. We are not Italians, to be trampled upon by European kings; but Americans, the descendants of that Anglo-Saxon race, which, for a thousand years, has known how to command respect, and to preserve its place at the head of nations. We are young, but old enough to prove that the theory of the Frenchman, the Abbé Raynal, is as false in its application to the people of this hemisphere as it is to the other productions of nature; and that the belittling tendencies of the New World are no more exemplified in the human race than they are in the exhibition of her rivers and her mountains, and in the indigenous races of the mammoth and the mastodon. The Duke de Broglie has made a mistake, the less excusable, because he might find in his own country, and perhaps in his own family, examples of the extreme criticalness of attempting to overawe a community of freemen. There was a Marshal Broglie, who was Minister at War, at the commencement of the French Revolution, and who advised the formation of a camp of 20,000 men to overawe Paris. The camp was formed. Paris revolted; captured the Bastile; marched to Versailles; stormed the Tuileries; overset the monarchy; and established the Revolution. So much for attempting to intimidate a city. And yet, here is a nation of freemen to be intimidated: a republic of fourteen millions of people, and descendants of that Anglo-Saxon race which, from the days of Agincourt and Cressy, of Blenheim and Ramillies, down to the days of Salamanca and Waterloo, have always known perfectly well how to deal with the impetuous and fiery courage of the French."

Mr. Benton also showed that there was a party in the French Chambers, working to separate the President of the United States from the people of the United States, and to make him responsible for the hostile attitude of the two countries. In this sense acted the deputy, Mons. Henry de Chabaulon, who spoke thus:

"The insult of President Jackson comes from himself only. This is more evident, from the refusal of the American Congress to concur with him in it. The French Chamber, by interfering, would render the affair more serious, and make its arrangement more difficult, and even dangerous. Let us put the case to ourselves. Suppose the United States had taken part with General Jackson, we should have had to demand satisfaction, not from him, but from the United States; and, instead of now talking about negotiation, we should have had to make appropriations for a war, and to intrust to our heroes of Navarino and Algiers the task of teaching the Americans that France knows the way to Washington as well as England."

This language was received with applause in the Chamber, by the extremes. It was the language held six weeks after the rise of Congress, and when the loss of the three millions asked by the President for contingent preparation, and after the loss of the fortification bill, were fully known in Paris. Another speaker in the Chamber, Mons. Rancé, was so elated by these losses as to allow himself to discourse thus:

"Gentlemen, we should put on one side of the tribune the twenty-five millions, on the other the sword of France. When the Americans see this good long sword, this very long sword, gentlemen (for it struck down every thing from Lisbon to Moscow), they will perhaps recollect what it did for the independence of their country; they will, perhaps, too, reflect upon what it could do to support and avenge the honor and dignity of France, when outraged by an ungrateful people. [Cries of 'well said!'] Believe me, gentlemen, they would sooner touch your money than dare to touch your sword; and for your twenty-five millions they will bring you back the satisfactory receipt, which it is your duty to exact."

And this also was received with great approbation, in the Chamber, by the two extremes and was promptly followed by two royal ordidances, published in the *Moniteur*, under which the Admiral Mackau was to take command of a "squadron of observation," and proceed to

the West Indies. The *Constitutionnel*, the demi-official paper of the government, stated that this measure was warranted by the actual state of the relations between France and the United States—that the United States had no force to oppose to it—and applauded the government for its foresight and energy. Mr. Benton thus commented upon the approach of this French squadron:

"A French fleet of sixty vessels of war, to be followed by sixty more, now in commission, approaches our coast; and approaches it for the avowed purpose of observing our conduct, in relation to France. It is styled, in the French papers, a squadron of observation; and we are sufficiently acquainted with the military vocabulary of France to know what that phrase means. In the days of the great Emperor, we were accustomed to see the armies which demolished empires at a blow, wear that pacific title up to the moment that the blow was ready to be struck. These grand armies assembled on the frontiers of empires, gave emphasis to negotiation, and crushed what resisted. A squadron of observation, then, is a squadron of intimidation first, and of attack eventually; and nothing could be more palpable than that such was the character of the squadron in question. It leaves the French coast contemporaneously with the departure of our diplomatic agent, and the assembling of our Congress; it arrives upon our coast at the very moment that we shall have to vote upon French affairs; and it takes a position upon our Southern border—that border, above all others, on which we are, at this time, peculiarly sensitive to hostile approach.

"What have we done, continued Mr. B., to draw this squadron upon us? We have done no wrong to France; we are making no preparations against her; and not even ordinary preparations for general and permanent security. We have treaties, and are executing them, even the treaty that she does not execute. We have been executing that treaty for four years, and may say that we have paid France as much under it as we have in vain demanded from her, as the first instalment of the indemnity; not, in fact, by taking money out of our treasury and delivering to her, but, what is better for her, namely, leaving her own money in her own hands, in the shape of diminished duties upon her wines, as provided for in this same treaty, which we execute, and which she does not. In this way, France has gained one or two millions of dollars from us, besides the encouragement to her wine trade. On the article of silks, she is also gaining money from us in the same way, not by treaty, but by law. Our discriminating duties in favor of silks, from this side the Cape of Good Hope, operate almost entirely in her favor. Our great supplies of silks are from France, England, and China. In four years, and under the operation of this discriminating duty, our imports of French silks have risen from two millions of dollars per annum to six millions and a half; from England, they have risen from a quarter of a million to three quarters; from China, they have sunk from three millions and a quarter to one million and a quarter. This discriminating duty has left between one and two millions of dollars in the pockets of Frenchmen, besides the encouragement to the silk manufacture and trade. Why, then, has she sent this squadron, to observe us first, and to strike us eventually? She knows our pacific disposition towards her, not only from our own words and actions, but from the official report of her own officers: from the very officer sent out last spring, in a brig, to carry back the recalled minister."

Mr. Benton then went on to charge the present state of our affairs with France distinctly and emphatically upon the conduct of the Senate, in their refusal to attend to the national defences—in their opposition to the President—and in the disposition manifested rather to pull down the President, in a party contest, than to sustain him against France—rather to plunder their own country than to defend it, by taking the public money for distribution instead of defence. To this effect, he said:

"He had never spoken unkindly of the French nation, neither in his place here, as a senator, nor in his private capacity elsewhere. Born since the American Revolution, bred up in habitual affection for the French name, coming upon the stage of life when the glories of the republic and of the empire were filling the world and dazzling the imagination, politically connected with the party which, a few years ago, was called French, his bosom had glowed with admiration for that people; and youthful affection had ripened into manly friendship. He would not now permit himself to speak unkindly, much less to use epithets; but he could not avoid fixing his attention upon the reason assigned in the *Constitutionnel* for the present advance of the French squadron upon us. That reason is this: 'America will have no force capable of being opposed to it.' This is the reason. Our nakedness, our destitution, has drawn upon us the honor of this visit; and we are now to speak, and vote, and so to demean ourselves, as men standing in the presence of a force which they cannot resist, and which had taught the lesson of submission to the Turk and the Arab! And here I change the theme: I turn from French intimidation to American legislation; and I ask how it comes that we have no force to oppose to this squadron which comes here to take a position upon our borders, and to show us that it knows the way to Washington as well as the English? This is my future

theme; and I have to present the American Senate as the responsible party for leaving our country in this wretched condition. First, there is the three million appropriation which was lost by the opposition of the Senate, and which carried down with it the whole fortification bill, to which it was attached. That bill, besides the three millions, contained thirteen specific appropriations for works of defence, part originating in the House of Representatives, and part in the Senate, and appropriating $900,000 to the completion and armament of forts.

"All these specific appropriations, continued Mr. B., were lost in the bill which was sunk by the opposition of the Senate to the three millions, which were attached to it by the House of Representatives. He (Mr. B.) was not a member of the conference committee which had the disagreement of the two Houses committed to its charge, and could go into no detail as to what happened in that conference; he took his stand upon the palpable ground that the opposition which the Senate made to the three million appropriation, the speeches which denounced it, and the prolonged invectives against the President, which inflamed the passions and consumed the precious time at the last moment of the session, were the true causes of the loss of that bill; and so leaves the responsibility for the loss on the shoulders of the Senate.

"Mr. B. recalled attention to the reason demi-officially assigned in the *Constitutionnel*, for the approach of the French fleet of observation, and to show that it came because 'America had no force capable of being opposed to it.' It was a subsidiary argument, and a fair illustration of the dangers and humiliations of a defenceless position. It should stimulate us to instant and vigorous action; to the concentration of all our money, and all our hands, to the sacred task of national defence. For himself, he did not believe there would be war, because he knew that there ought not to be war; but that belief would have no effect upon his conduct. He went for national defence, because that policy was right in itself, without regard to times and circumstances. He went for it now, because it was the response, and the only response, which American honor could give to the visit of Admiral Mackau. Above all, he went for it because it was the way, and the only manly way, of letting France know that she had committed a mistake in sending this fleet upon us. In conclusion, he would call for the yeas and nays, and remark that our votes would have to be given under the guns of France, and under the eyes of Europe."

The reproach cast by Mr. Benton on the conduct of the Senate, in causing the loss of the defence bills, and the consequent insult from France, brought several members to their feet in defence of themselves and the body to which they belonged.

"Mr. Webster said his duty was to take care that neither in nor out of the Senate there should be any mistake, the effect of which should be to produce an impression unfavorable or reproachful to the character and patriotism of the American people. He remembered the progress of that bill (the bill alluded to by Mr. Benton), the incidents of its history, and the real cause of its loss. And he would satisfy any man that the loss of it was not attributable to any member or officer of the Senate. He would not, however, do so until the Senate should again have been in session on executive business. As soon as that took place, he should undertake to show that it was not to any dereliction of duty on the part of the Senate that the loss of that bill was to be attributed.

"Mr. Preston of South Carolina said every senator had concurred in general appropriations to put the navy and army in a state of defence. This undefined appropriation was not the only exception. The gentleman from Missouri (Mr. Benton) had said this appropriation was intended to operate as a permanent defence. The senator from Missouri (Mr. Benton) had preferred a general indictment against the Senate before the people of the United States. It was strange the gentleman should ask the departments for calculations to enable us to know how much was necessary to appropriate, when the information was not given to us when we rejected the undefined appropriations. I rejoice, said Mr. P., that the gentleman has said even to my fears there will be no French war. France was not going to squabble with America on a little point of honor, that might do for duellists to quarrel about, but not for nations. There was no reason why blood should be poured out like water in righting this point of honor. If this matter was placed on its proper basis, his hopes would be lit up into a blaze of confidence. The President had recommended making reprisals, if France refused payment. France had refused, but the remedy was not pursued. It may be, said he, that this fleet is merely coming to protect the commerce of France. If the President of the United States, at the last session of Congress, had suggested the necessity of making this appropriation, we would have poured out the treasury; we would have filled his hands for all necessary purposes. There was one hundred thousand dollars appropriated that had not been called for. He did not know whether he was permitted to go any further and say to what extent any of the departments were disposed to go in this matter.

"Mr. Clayton of Delaware was surprised at the suggestion of an idea that the American Senate was not disposed to make the necessary appropriations for the defence of the country; that they had endeavored to prevent the passage of a bill, the object of which was to make provision for large appropriations for our defence The senator from Missouri had gone into a liberal attack of the Senate. He (Mr. C.) was not disposed

to say any thing further of the events of the last night of the session. He took occasion to say there were other matters in connection with this appropriation. Before any department or any friend of the administration had named an appropriation for defence, he made the motion to appropriate five hundred thousand dollars. It was on his motion that the Committee on Military Affairs made the appropriation to increase the fortifications. Actuated by the very same motives which induced him to move that appropriation, he had moved an additional appropriation to Fort Delaware. The motion was to increase the seventy-five thousand to one hundred and fifty thousand, and elicited a protracted debate. The next question was, whether, in the general bill, five hundred thousand dollars should be appropriated. He recollected the honorable chairman of the Committee on Finance told them there was an amendment before that committee of similar tenor. As chairman of the Committee on Military Affairs, he felt disinclined to give it up. The amendment fell on the single ground, by one vote, that the Committee on Finance had before it the identical proposition made by the Committee on Military Affairs. He appealed to the country whether, under those circumstances, they were to be arraigned before the people of the country on a charge of a want of patriotism. He had always felt deeply affected when those general remarks were made impugning the motives of patriotism of the senators. He was willing to go as far as he who goes farthest in making appropriations for the national protection. Nay, he would be in advance of the administration."

Mr. Benton returned to his charge that the defence bills of the last session were lost through the conduct of the Senate. It was the Senate which disagreed to the House amendment of three millions to the fortification bill (which itself contained appropriations to the amount of $900,000); and it was the Senate which moved to "adhere" to its disagreement, thereby adopting the harsh measure which so much endangers legislation. And, in support of his views, he said:

"The bill died under lapse of time. It died because not acted upon before midnight of the last day of the session. Right or wrong, the session was over before the report of the conferees could be acted on. The House of Representatives was without a quorum, and the Senate was about in the same condition. Two attempts in the Senate to get a vote on some printing moved by his colleague (Mr. Linn), were both lost for want of a quorum. The session then was at an end, for want of quorums, whether the legal right to sit had ceased or not. The bill was not rejected either in the House of Representatives or in the Senate, but it died for want of action upon it; and that action was prevented by want of time. Now, whose fault was it that there was no time left for acting on the report of the conferees? That was the true question, and the answer to it would show where the fault lay. This answer is as clear as midday, though the transaction took place in the darkness of midnight. It was the Senate! The bill came to the Senate in full time to have been acted upon, if it had been treated as all bills must be treated that are intended to be passed in the last hours of the session. It is no time for speaking. All speaking is then fatal to bills, and equally fatal, whether for or against them. Yet, what was the conduct of the Senate with respect to this bill? Members commenced speaking upon it with vehemence and perseverance, and continued at it, one after another. These speeches were fatal to the bill. They were numerous, and consumed much time to deliver them. They were criminative, and provoked replies. They denounced the President without measure; and, by implication, the House of Representatives, which sustained him. They were intemperate, and destroyed the temper of others. In this way the precious time was consumed in which the bill might have been acted upon; and, for want of which time, it is lost. Every one that made a speech helped to destroy it; and nearly the whole body of the opposition spoke, and most of them at much length, and with unusual warmth and animation. So certain was he of the ruinous effect of this speaking, that he himself never opened his mouth nor uttered one word upon it. Then came the fatal motion to adhere, the effect of which was to make bad worse, and to destroy the last chance, unless the House of Representatives had humbled itself to ask a conference from the Senate. The fatal effect of this motion to adhere, Mr. B. would show from Jefferson's Manual; and read as follows: 'The regular progression in this case is, that the Commons disagree to the amendment; the Lords insist on it; the Commons insist on their disagreement.; the Lords adhere to their amendment; the Commons adhere to their disagreement; the term of insisting may be repeated as often as they choose to keep the question open; but the first adherence by either renders it necessary for the other to recede or to adhere also; when the matter is usually suffered to fall. (10 Grey, 148.) Latterly, however, there are instances of their having gone to a second adherence. There must be an absolute conclusion of the subject somewhere, or otherwise transactions between the Houses would become endless. (3 Hatsell, 268, 270.) The term of insisting, we are told by Sir John Trevor, was then (1678) newly introduced into parliamentary usage by the Lords. (7 Grey, 94.) It was certainly a happy innovation, as it multiplies the opportunities of trying modifications, which may bring the Houses to a concurrence. Either House, however, is free to pass over the term of insisting, and to adhere in the first in-

stance. (10 Grey, 146.) But it is not respectful to the other. In the ordinary parliamentary course, there are two free conferences at least before an adherence. (10 Grey, 147.)'

"This is the regular progression in the case of amendments, and there are five steps in it. 1. To agree. 2. To disagree. 3. To recede. 4. To insist. 5. To adhere. Of these five steps adherence is the last, and yet it was the first adopted by the Senate. The effect of its adoption was, in parliamentary usage, to put an end to the matter. It was, by the law of Parliament, a disrespect to the House. No conference was even asked by the Senate after the adherence, although, by the parliamentary law, there ought to have been two free conferences at least before the adherence was voted. All this was fully stated to the Senate that night, and before the question to adhere was put. It was fully stated by you, sir (said Mr. B., addressing himself to Mr. King, of Alabama, who was then in the Vice-President's chair). This vote to adhere, coupled with the violent speeches, denouncing the President, and, by implication, censuring the House of Representatives, and coupled with the total omission of the Senate to ask for a conference, seemed to indicate a fatal purpose to destroy the bill; and lost it would have been upon the spot, if the House of Representatives, forgetting the disrespect with which it had been treated, and passing over the censure impliedly cast upon it, had not humbled itself to come and ask for a conference. The House humbled itself; but it was a patriotic and noble humiliation; it was to serve their country. The conference was granted, and an amendment was agreed upon by the conferees, by which the amount was reduced, and the sum divided, and $300,000 allowed to the military, and $500,000 to the naval service. This was done at last, and after all the irritating speeches and irritating conduct of the Senate; but the precious time was gone. The hour of midnight was not only come, but members were dispersed; quorums were unattainable; and the bill died for want of action. And now (said Mr. B.) I return to my question. I resume, and maintain my position upon it. I ask how it came to pass, if want of specification was really the objection —how it came to pass that the Senate did not do at first what it did at last? Why did it not amend, by the easy, natural, obvious, and parliamentary process of disagreeing, insisting, and asking for a committee of conference?

"Mr. B. would say but a word on the new calendar, which would make the day begin in the middle. It was sufficient to state such a conception to expose it to ridicule. A farmer would be sadly put out if his laborers should refuse to come until mid-day. The thing was rather too fanciful for grave deliberation. Suffice it to say there are no fractions of days in any calendar. There is no three and one fourth, three and one half, and three and three fourths of March, or any other month. When one day ends, another begins, and midnight is the turning point both in law and in practice. All our laws of the last day are dated the 3d of March; and, in point of fact, Congress, for every beneficial purpose, is dissolved at midnight. Many members will not act, and go away; and such was the practice of the venerable Mr. Macon, of North Carolina, who always acted precisely as President Jackson did. He put on his hat and went away at midnight; he went away when his own watch told him it was midnight; after which he believed he had no authority to act as a legislotor, nor the Senate to make him act as such. This was President Jackson's course. He stayed in the Capitol until a quarter after one, to sign all the bills which Congress should pass before midnight. He stayed until a majority of Congress was gone, and quorums unattainable. He stayed in the Capitol, in a room convenient to the Senate, to act upon every thing that was sent to him, and did not have to be waked up, as Washington was, to sign after midnight; a most unfortunate reference to Washington, who, by going to bed at midnight, showed that he considered the business of the day ended; and by getting up and putting on his night gown, and signing a bill at two o'clock in the morning of the 4th, showed that he would sign at that hour what had passed before midnight; and does not that act bear date the 3d of March?

Mr. Webster earnestly defended the Senate's conduct and his own; and said:

"This proposition, sir, was thus unexpectedly and suddenly put to us, at eight o'clock in the evening of the last day of the session. Unusual, unprecedented, extraordinary, as it obviously is, on the face of it, the manner of presenting it was still more extraordinary. The President had asked for no such grant of money; no department had recommended it; no estimate had suggested it; no reason whatever was given for it. No emergency had happened, and nothing new had occurred; every thing known to the administration at that hour, respecting our foreign relations, had certainly been known to it for days and for weeks before.

"With what propriety, then, could the Senate be called on to sanction a proceeding so entirely irregular and anomalous? Sir, I recollect the occurrences of the moment very well, and I remember the impression which this vote of the House seemed to make all around the Senate. We had just come out of executive session; the doors were but just opened; and I hardly remember whether there was a single spectator in the hall or the galleries. I had been at the clerk's table, and had not reached my seat when the message was read. All the senators were in the chamber. I heard the message certainly with great surprise and astonishment; and I immediately moved the Senate to disagree to this vote of the House. My relation to the sub-

ject, in consequence of my connection with the Committee on Finance, made it my duty to propose some course, and I had not a moment's doubt or hesitation what that course ought to be. I took upon myself, then, sir, the responsibility of moving that the Senate should disagree to this vote, and I now acknowledge that responsibility. It might be presumptuous to say that I took a leading part, but I certainly took an early part, a decided part, and an earnest part, in rejecting this broad grant of three millions of dollars, without limitation of purpose or specification of object; called for by no recommendation, founded on no estimate, made necessary by no state of things which was made known to us. Certainly, sir, I took a part in its rejection; and I stand here, in my place in the Senate, to-day, ready to defend the part so taken by me; or rather, sir, I disclaim all defence, and all occasion of defence, and I assert it as meritorious to have been among those who arrested, at the earliest moment, this extraordinary departure from all settled usage, and, as I think, from plain constitutional injunction—this indefinite voting of a vast sum of money to mere executive discretion, without limit assigned, without object specified, without reason given, and without the least control under heaven.

"Sir, I am told that, in opposing this grant, I spoke with warmth, and I suppose I may have done so. If I did, it was a warmth springing from as honest a conviction of duty as ever influenced a public man. It was spontaneous, unaffected, sincere. There had been among us, sir, no consultation, no concert. There could have been none. Between the reading of the message and my motion to disagree there was not time enough for any two members of the Senate to exchange five words on the subject. The proposition was sudden and perfectly unexpected. I resisted it, as irregular, as dangerous in itself, and dangerous in its precedent, as wholly unnecessary, and as violating the plain intention, if not the express words, of the constitution. Before the Senate I then avowed, and before the country I now avow, my part in this opposition. Whatsoever is to fall on those who sanctioned it, of that let me have my full share.

"The Senate, sir, rejected this grant by a vote of twenty-nine against nineteen. Those twenty-nine names are on the journal; and whensoever the expunging process may commence, or how far soever it may be carried, I pray it, in mercy, not to erase mine from that record. I beseech it, in its sparing goodness, to leave me that proof of attachment to duty and to principle. It may draw around it, over it, or through it, black lines, or red lines, or any lines; it may mark it in any way which either the most prostrate and fantastical spirit of man-worship, or the most ingenious and elaborate study of self-degradation may devise, if only it will leave it so that those who inherit my blood, or who may hereafter care for my reputation, shall be able to behold it where it now stands

"The House, sir, insisted on this amendment. The Senate adhered to its disagreement. The House asked a conference, to which request the Senate immediately acceded. The committees of conference met, and, in a short time, came to an agreement. They agreed to recommend to their respective Houses, as a substitute for the vote proposed by the House, the following:

"'As an additional appropriation for arming the fortifications of the United States, three hundred thousand dollars.'

"As an additional appropriation for the repair and equipment of ships of war of the United States, five hundred thousand dollars.'

"I immediately reported this agreement of the committees of conference to the Senate; but, inasmuch as the bill was in the House of Representatives, the Senate could not act further on the matter until the House should first have considered the report of the committees, decided thereon, and sent us the bill. I did not myself take any note of the particular hour of this part of the transaction. The honorable member from Virginia (Mr. Leigh) says he consulted his watch at the time, and he knows that I had come from the conference, and was in my seat, at a quarter past eleven. I have no reason to think that he is under any mistake in this particular. He says it so happened that he had occasion to take notice of the hour, and well remembers it. It could not well have been later than this, as any one will be satisfied who will look at our journals, public and executive, and see what a mass of business was dispatched after I came from the committees, and before the adjournment of the Senate. Having made the report, sir, I had no doubt that both Houses would concur in the result of the conference, and looked every moment for the officer of the House bringing the bill. He did not come, however, and I pretty soon learned that there was doubt whether the committee on the part of the House would report to the House the agreement of the conferees. At first I did not at all credit this; but it was confirmed by one communication after another, until I was obliged to think it true. Seeing that the bill was thus in danger of being lost, and intending, at any rate, that no blame should justly attach to the Senate, I immediately moved the following resolution:

"'*Resolved*, That a message be sent to the honorable the House of Representatives, respectfully to remind the House of the report of the committee of conference appointed on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill respecting the fortifications of the United States.'

"You recollect this resolution, sir, having, as I well remember, taken some part on the occasion.

"This resolution was promptly passed; the Secretary carried it to the House, and delivered it. What was done in the House on the receipt

of this message now appears from the printed journal. I have no wish to comment on the proceedings there recorded—all may read them, and each be able to form his own opinion. Suffice it to say, that the House of Representatives, having then possession of the bill, chose to retain that possession, and never acted on the report of the committee. The bill, therefore, was lost. It was lost in the House of Representatives. It died there, and there its remains are to be found. No opportunity was given to the members of the House to decide whether they would agree to the report of the two committees or not. From a quarter past eleven, when the report was agreed to by the committees, until two or three o'clock in the morning, the House remained in session. If at any time there was not a quorum of members present, the attendance of a quorum, we are to presume, might have been commanded, as there was undoubtedly a great majority of the members still in the city.

"But now, sir, there is one other transaction of the evening which I feel bound to state, because I think it quite important, on several accounts, that it should be known.

"A nomination was pending before the Senate, for a judge of the Supreme Court. In the course of the sitting, that nomination was called up, and, on motion, was indefinitely postponed. In other words, it was rejected; for an indefinite postponement is a rejection. The office, of course, remained vacant, and the nomination of another person to fill it became necessary. The President of the United States was then in the capitol, as is usual on the evening of the last day of the session, in the chamber assigned to him, and with the heads of departments around him. When nominations are rejected under these circumstances, it has been usual for the President immediately to transmit a new nomination to the Senate; otherwise the office must remain vacant till the next session, as the vacancy in such case has not happened in the recess of Congress. The vote of the Senate, indefinitely postponing this nomination, was carried to the President's room by the Secretary of the Senate. The President told the Secretary that it was more than an hour past twelve o'clock, and that he could receive no further communications from the Senate, and immediately after, as I have understood, left the capitol. The Secretary brought back the paper containing the certified copy of the vote of the Senate, and indorsed thereon the substance of the President's answer, and also added that, according to his own watch, it was a quarter past one o'clock."

This was the argument of Mr. Webster in defence of the Senate and himself; but it could not alter the facts of the case—that the Senate disagreed to the House appropriation—that it adhered harshly—that it consumed the time in elaborate speeches against the President—and that the bill was lost upon lapse of time, the existence of the Congress itself expiring while this contention, began by the Senate, was going on.

Mr. Webster dissented from the new doctrine of counting years by fractions of a day, as a thing having no place in the constitution, in law, or in practice;—and which was besides impracticable, and said:

"There is no clause of the constitution, nor is there any law, which declares that the term of office of members of the House of Representatives shall expire at twelve o'clock at night on the 3d of March. They are to hold for two years, but the precise hour for the commencement of that term of two years is nowhere fixed by constitutional or legal provision. It has been established by usage and by inference, and very properly established, that, since the first Congress commenced its existence on the first Wednesday in March, 1789, which happened to be the 4th day of that month, therefore, the 4th of March is the day of the commencement of each successive term, but no hour is fixed by law or practice. The true rule is, as I think, most undoubtedly, that the session holden on the last day, constitutes the last day, for all legislative and legal purposes. While the session commenced on that day continues, the day itself continues, according to the established practice both of legislative and judicial bodies. This could not well be otherwise. If the precise moment of actual time were to settle such a matter, it would be material to ask, who shall settle the time? Shall it be done by public authority; or shall every man observe the tick of his own watch? If absolute time is to furnish a precise rule, the excess of a minute, it is obvious, would be as fatal as the excess of an hour. Sir, no bodies, judicial or legislative, have ever been so hypercritical, so astute to no purpose, so much more nice than wise, as to govern themselves by any such ideas. The session for the day, at whatever hour it commences, or at whatever hour it breaks up, is the legislative day. Every thing has reference to the commencement of that diurnal session. For instance, this is the 14th day of January; we assembled here to day at twelve o'clock; our journal is dated January 14th, and if we should remain until five o'clock to-morrow morning (and the Senate has sometimes sat so late) our proceedings would still all bear date of the 14th of January; they would be so stated upon the journal, and the jounal is a record, and is a conclusive record, so far as respects the proceedings of the body."

But he adduced practice to the contrary, and showed that the expiring Congress had often sat after midnight, on the day of the 3d of

March, in the years when that day was the end of the Congress; and in speaking of what had often occurred, he was right. I have often seen it myself; but in such cases there was usually an acknowledgment of the wrong by stopping the Senate clock, or setting it back; and I have also seen the hour called and marked on the journal after twelve, and the bills sent to the President, noted as passed at such an hour of the morning of the fourth; when they remained untouched by the President; and all bills and acts sent to him on the morning of the fourth are dated of the third; and that date legalizes them, although erroneous in point of fact. But, many of the elder members, such as Mr. Macon, would have nothing to do with these contrivances, and left the chamber at midnight, saying that the Congress was constitutionally extinct, and that they had no longer any power to sit and act as a Senate. Upon this point Mr. Grundy, of Tennessee, a distinguished jurist as well as statesman, delivered his opinion, and in consonance with the best authorities. He said:

"A serious question seems now to be made, as to what time Congress constitutionally terminates. Until lately, I have not heard it seriously urged that twelve o'clock, on the 3d of March, at night, is not the true period. It is now insisted, however, that at twelve o'clock on the 4th of March is the true time; and the argument in support of this is, that the first Congress met at twelve o'clock, on the 4th of March. This is not placing the question on the true ground; it is not when the Congress did meet, or when the President was qualified by taking the oath of office, but when did they have the constitutional right to meet? This certainly was, and is, in all future cases, on the 4th of March; and if the day commence, according to the universal acceptation and understanding of the country, at the first moment after twelve o'clock at night on the 3d of March, the constitutional right or power of the new Congress commences at that time; and if called by the Chief Magistrate to meet at that time, they might then qualify and open their session. There would be no use in arguing away the common understanding of the country, and it would seem as reasonable to maintain that the 4th of March ended when the first Congress adjourned, as it is to say that it began when they met. From twelve o'clock at night until twelve o'clock at night is the mode of computing a day by the people of the United States, and I do not feel authorized to establish a different mode of computation for Congress. At what hour does Christmas commence? When does the first day of the year, or the first of January, commence? Is it at midnight or at noon? If the first day of a year or month begins and ends at midnight, does not every other day? Congress has always acted upon the impression that the 3d of March ended at midnight; hence that setting back of clocks which we have witnessed on the 3d of March, at the termination of the short session.

"In using this argument, I do not wish to be understood as censuring those who have transacted the public business here after twelve o'clock on the 3d of March. From this error, if it be one, I claim no exemption. With a single exception, I believe, I have always remained until the final adjournment of both Houses. As to the President of the United States, he remained until after one o'clock on the 4th of March. This was making a full and fair allowance for the difference that might exist in different instruments for keeping time; and he then retired from his chamber in the Capitol. The fortification bill never passed Congress; it never was offered to him for his signature; he, therefore, can be in no fault. It was argued that many acts of Congress passed on the 4th of March, at the short session, are upon our statute books, and that these acts are valid and binding. It should be remembered that they all bear date on the 3d of March; and so high is the authenticity of our records, that, according to the rules of evidence, no testimony can be received to contradict any thing which appears upon the face of our acts."

To show the practice of the Senate, when its attention was called to the true hour, and to the fact that the fourth day of March was upon them, the author of this View, in the course of this debate, showed the history of the actual termination of the last session—the one at which the fortification bill was lost. Mr. Hill, of New Hampshire, was speaking of certain enormous printing jobs which were pressed upon the Senate in its expiring moments, and defeated after midnight; Mr. Benton asked leave to tell the secret history of this defeat; which being granted, he stood up, and said:

"He defeated these printing jobs after midnight, and by speaking against time. He had avowed his determination to speak out the session; and after speaking a long time against time, he found that time stood still; that the hands of our clock obstinately refused to pass the hour of twelve; and thereupon addressed the presiding officer (Mr. Tyler, the President *pro tem.*), to call to his attention the refractory disposition of the clock; which, in fact, had been set back by the officers of the House, according to common usage on the last night, to hide from ourselves the fact that our time was at an end. The presiding officer (Mr. B. said) directed an officer of the House to put forward the clock to

the right time; which was done; and not another vote was taken that night, except the vote to adjourn."

This was a case, as the lawyers say, in point. It was the refusal of the Senate the very night in question, to do any thing except to give the adjourning vote after the attention of the Senate was called to the hour.

In reply to Mr. Calhoun's argument against American arming, and that such arming would be war on our side, Mr. Grundy replied:

"But it is said by the gentleman from South Carolina (Mr. Calhoun), that, if we arm, we instantly make war: it is war. If this be so, we are placed in a most humiliating situation. Since this controversy commenced, the French nation has armed; they have increased their vessels of war; they have equipped them; they have enlisted or pressed additional seamen into the public service; they have appointed to the command of this large naval force one of their most experienced and renowned naval officers; and this squadron, thus prepared, and for what particular purpose we know not, is now actually in the neighborhood of the American coast. I admit this proceeding on the part of the French government is neither war, nor just cause of war on our part; but, seeing this, shall we be told, if we do similar acts, designed to defend our own country, we are making war? As I understand the public law, every nation has the right to judge for itself of the extent of its own military and naval armaments, and no other nation has a right to complain or call it in question. It appears to me that, although the preparations and armaments of the French government are matters not to be excepted to, still they should admonish us to place our country in a condition in which it could be defended in the event the present difficulties between the two nations should lead to hostilities."

In the course of the debate the greater part of the opposition senators declared their intention to sustain measures of defence; on which Mr. Benton congratulated the country, and said:

"A good consequence had resulted from an unpleasant debate. All parties had disclaimed the merit of sinking the fortification bill of the last session, and a majority had evinced a determination to repair the evil by voting adequate appropriations now. This was good. It bespoke better results in time to come, and would dispel that illusion of divided counsels on which the French government had so largely calculated. The rejection of the three millions, and the loss of the fortification bill, had deceived France; it had led her into the mistake of supposing that we viewed every question in a mercantile point of view; that the question of profit and loss was the only rule we had to go by; that national honor was no object; and that, to obtain these miserable twenty-five millions of francs, we should be ready to submit to any quantity of indignity, and to wade through any depth of national humiliation. The debate which has taken place will dispel that illusion; and the first dispatch which the young Admiral Mackau will have to send to his government will be to inform it that there has been a mistake in this business—that these Americans wrangle among themselves, but unite against foreigners; and that many opposition senators are ready to vote double the amount of the twenty-five millions to put the country in a condition to sustain that noble sentiment of President Jackson, that the honor of his country shall never be stained by his making an apology for speaking truth in the performance of duty."

CHAPTER CXXXIII.

FRENCH INDEMNITIES: BRITISH MEDIATION: INDEMNITIES PAID.

The message of the President in relation to French affairs had been referred to the Senate's committee on foreign relations, and before any report had been received from that committee a further message was received from the President informing the Senate that Great Britain had offered her friendly mediation between the United States and France—that it had been accepted by the governments both of France and the United States; and recommending a suspension of all retaliatory measures against France; but a vigorous prosecution of the national works of general and permanent defence. The message also stated that the mediation had been accepted on the part of the United States with a careful reservation of the points in the controversy which involved the honor of the country, and which admitted of no compromise—a reservation which, in the vocabulary of General Jackson, was equivalent to saying that the indemnities must be paid, and no apologies made. And such in fact was the case. Within a month from the date of that message the four instalments of the indemnities then due, were fully paid; and without waiting for any action on the part of the mediator. In communicating the offer of the British mediation the President expressed his high appreciation of the "elevated

and disinterested motives of that offer." The motives were, in fact, both elevated and disinterested; and presents one of those noble spectacles in the conduct of nations on which history loves to dwell. France and the United States had fought together against Great Britain; now Great Britain steps between France and the United States to prevent them from fighting each other. George the Third received the combined attacks of French and Americans; his son, William the Fourth, interposes to prevent their arms from being turned against each other. It was a noble intervention, and a just return for the good work of the Emperor Alexander in offering his mediation between the United States and Great Britain—good works these peace mediations, and as nearly divine as humanity can reach;—worthy of all praise, of long remembrance, and continual imitation;—the more so in this case of the British mediation when the event to be prevented would have been so favorable to British interests—would have thrown the commerce of the United States and of France into her hands, and enriched her at the expense of both. Happily the progress of the age which, in cultivating good will among nations, elevates great powers above all selfishness, and permits no unfriendly recollection—no selfish calculation—to balk the impulsions of a noble philanthropy.

I have made a copious chapter upon the subject of this episodical controversy with France—more full, it might seem, than the subject required, seeing its speedy and happy termination: but not without object. Instructive lessons result from this history; both from the French and American side of it. The wrong to the United States came from the French chamber of deputies—from the opposition part of it, composed of the two extremes of republicans and legitimists, deadly hostile to each other, but combined in any attempt to embarrass a king whom both wished to destroy: and this French opposition inflamed the question there. In the United States there was also an opposition, composed of two, lately hostile parties (the modern whigs and the southern dissatisfied democracy); and this opposition, dominant in the Senate, and frustrating the President's measures, gave encouragement to the French opposition: and the two together, brought their respective countries to the brink of war. The two oppositions are responsible for the hostile attitude to which the two countries were brought. That this is not a harsh opinion, nor without foundation, may be seen by the history which is given of the case in the chapter dedicated to it; and if more is wanting, it may be found in the recorded debates of the day; in which things were said which were afterwards regretted; and which, being regretted, the author of this View has no desire to repeat:—the instructive lesson of history which he wishes to inculcate, being complete without the exhumation of what ought to remain buried. Nor can the steadiness and firmness of President Jackson be overlooked in this reflective view. In all the aspects of the French question he remained inflexible in his demand for justice, and in his detrmination, so far as it depended upon him to have it. In his final message, communicating to congress the conclusion of the affair, he gracefully associated congress with himself in their joy at the restoration of the ancient cordial relations between two countries, of ancient friendship, which misconceptions had temporarily alienated from each other.

CHAPTER CXXXIV.

PRESIDENT JACKSON'S FOREIGN DIPLOMACY.

A VIEW of President Jackson's foreign diplomacy has been reserved for the last year of his administration, and to the conclusion of his longest, latest, and most difficult negotiation; and is now presented in a single chapter, giving the history of his intercourse with foreign nations. From no part of his administration was more harm apprehended, by those who dreaded the election of General Jackson, than from this source. From his military character they feared embroilments; from his want of experience as a diplomatist, they feared mistakes and blunders in our foreign intercourse. These apprehensions were very sincerely entertained by a large proportion of our citizens; but, as the event proved, entirely without foundation. No part of his administration, successful, beneficial, and honorable as it was at home, was more successful, beneficial and honorable than that of his foreign diplomacy. He obtained indemnities for all outrages committed on our commerce before

his time, and none were committed during his time. He made good commercial treaties with some nations from which they could not be obtained before—settled some long-standing and vexatious questions; and left the whole world at peace with his country, and engaged in the good offices of trade and hospitality. A brief detail of actual occurrences will justify this general and agreeable statement.

1. The Direct Trade with the British West Indies.—I have already shown, in a separate chapter, the recovery, in the first year of his administration, of this valuable branch of our commerce, so desirable to us from the nearness of those islands to our shore, the domestic productions which they took from us, the employment it gave to our navigation, the actual large amount of the trade, the acceptable articles it gave in return, and its satisfactory establishment on a durable basis after fifty years of interrupted, and precarious, and restricted enjoyment: and I add nothing more on that head. I proceed to new cases of indemnities obtained, or of new treaties formed.

2. At the head of these stands the French Indemnity Treaty.—The commerce of the United States had suffered greatly under the decrees of the Emperor Napoleon, and redress had been sought by every administration, and in vain, from that of Mr. Madison to that of Mr. John Quincy Adams, inclusively. President Jackson determined from the first moment of his administration to prosecute the claims on France with vigor; and that not only as a matter of right, but of policy. There were other secondary powers, such as Naples and Spain, subject to the same kind of reclamation, and which had sheltered their refusal behind that of France; and with some show of reason, as France, besides having committed the largest depredation, was the origin of the system under which they acted, and the inducing cause of their conduct. France was the strong power in this class of wrongdoers, and as such was the one first to be dealt with. In his first annual message to the two Houses of Congress, President Jackson brought this subject before that body, and disclosed his own policy in relation to it. He took up the question as one of undeniable wrong which had already griven rise to much unpleasant discussion, and which might lead to possible collision between the two governments; and expressed a confident hope that the injurious delays of the past would find a redress in the equity of the future. This was pretty clear language, and stood for something in the message of a President whose maxim of foreign policy was, to "ask nothing but what was right, and to submit to nothing that was wrong." At the same time, Mr. William C. Rives, of Virginia, was sent to Paris as minister plenipotentiary and envoy extraordinary, and especially charged with this reclamation. His mission was successful; and at the commencement of the session 1831–'32, the President had the gratification to communicate to both Houses of Congress and to submit to the Senate for its approbation, the treaty which closed up this long-standing head of complaint against an ancient ally. The French government agreed to pay twenty-five millions of francs to American citizens "for (such was the language of the treaty) unlawful seizures, captures, sequestrations, confiscations or destruction of their vessels, cargoes or other property;" subject to a deduction of one million and a half of francs for claims of French citizens, or the royal treasury, for "ancient supplies or accounts," or for reclamations on account of commercial injury. Thus all American claims for spoliation in the time of the Emperor Napoleon were acknowledged and agreed to be satisfied, and the acknowledgment and agreement for satisfaction made in terms which admitted the illegality and injustice of the acts in which they originated. At the same time all the French claims upon the United States, from the time of our revolution, of which two (those of the heirs of Beaumarchais and of the Count Rochambeau) had been a subject of reclamation for forty years, were satisfied. The treaty was signed July 4th, 1831, one year after the accession of Louis Phillippe to the French throne—and to the natural desire of the new king (under the circumstances of his elevation) to be on good terms with the United States; and to the good offices of General Lafayette, then once more influential in the councils of France, as well as to the zealous exertions of our minister, the auspicious conclusion of this business is to be much attributed. The indemnity payable in six annual equal instalments, was satisfactory to government and to the claimants; and in communicating informa tion of the treaty to Congress, President Jackson, after a just congratulation on putting an

end to a subject of irritation which for many years had, in some degree, alienated two nations from each other, which, from interest as well as from early recollections, ought to cherish the most friendly relations—and (as if feeling all the further consequential advantages of this success) went on to state, as some of the good effects to result from it, that it gave encouragement to persevere in demands for justice from other nations; that it would be an admonition that just claims would be prosecuted to satisfactory conclusions, and give assurance to our own citizens that their own government will exert all its constitutional power to obtain redress for all their foreign wrongs. This latter declaration was afterwards put to the proof, in relation to the execution of the treaty itself, and was kept to the whole extent of its letter and spirit, and with good results both to France and the United States. It so happened that the French legislative chambers refused to vote appropriations necessary to carry the treaty into effect. An acrimonious correspondence between the two governments took place, becoming complicated with resentment on the part of France for some expressions, which she found to be disrespectful, in a message of President Jackson. The French minister was recalled from the United States; the American minister received his passport; and reprisals were recommended to Congress by the President. But there was no necessity for them. The intent to give offence, or to be disrespectful, was disclaimed; the instalments in arrear were paid; the two nations returned to their accustomed good feeling; and no visible trace remains of the brief and transient cloud which for a while overshadowed them. So finished, in the time of Jackson, with entire satisfaction to ourselves, and with honor to both parties, the question of reclamations from France for injuries done our citizens in the time of the Great Emperor; and which the administrations of Jefferson, Madison, Monroe and John Quincy Adams had been unable to enforce.

3. Danish Treaty.—This was a convention for indemnity for spoliations on American commerce, committed twenty years before the time of General Jackson's administration. They had been committed during the years 1808, 1809, 1810, and 1811, that is to say, during the last year of Mr. Jefferson's administration and the three first years of Mr. Madison s. They consisted of illegal seizures and illegal condemnations or confiscations of American vessels and their cargoes in Danish ports, during the time when the British orders in council and the French imperial decrees were devastating the commerce of neutral nations, and subjecting the weaker powers of Europe to the course of policy which the two great belligerent powers had adopted. The termination of the great European contest, and the return of nations to the accustomed paths of commercial intercourse and just and friendly relations, furnished a suitable opportunity for the United States, whose citizens had suffered so much, to demand indemnity for these injuries. The demand had been made, and had been followed up with zeal during each succeeding administration, but without effect, until the administration of Mr. John Quincy Adams. During that administration, and in the hands of the American Chargé d'Affaires (Mr. Henry Wheaton), the negotiation made encouraging progress. General Jackson did not change the negotiator—did not incur double expense, a year's delay, and substitute a raw for a ripe minister—and the negotiation went on to a speedy and prosperous conclusion. The treaty was concluded in March, 1830, and extended to a complete settlement of all questions of reclamation on both sides. The Danish government renounced all pretension to the claims which it had preferred, and agreed to pay the sum of six hundred and fifty thousand dollars to the government of the United States, to be by it distributed among the American claimants. This convention, which received the immediate ratification of the President and Senate, terminated all differences with a friendly power, with whom the United States never had any but kind relations (these spoliations excepted), and whose trade to her West India islands, lying at our door, and taking much of our domestic productions, was so desirable to us.

4. Neapolitan Indemnity Treaty.—When Murat was King of Naples, and acting upon the system of his brother-in-law, the Emperor Napoleon, he seized and confiscated many vessels and their cargoes, belonging to citizens of the United States. The years 1809, 1810, 1811 and 1812 were the periods of these wrongs. Efforts had been made under each administration, from Mr. Madison to Mr. John Quincy Adams, to obtain redress, but in vain. Among others, the special mission of

Mr. William Pinkney, the eminent orator and jurist, was instituted in the last year of Mr. Madison's administration, exclusively charged, at that court, with soliciting indemnity for the Murat spoliations. A Bourbon was then upon the throne, and this 'legitimate,' considering Murat as an usurper who had taken the kingdom from its proper owners, and done more harm to them than to any body else, was naturally averse to making compensation to other nations for his injurious acts. This repugnance had found an excuse in the fact that France, the great original wrongdoer in all these spoliations, and under whose lead and protection they were all committed, had not yet been brought to acknowledge the wrong and to make satisfaction. The indemnity treaty with France, in July 1831, put an end to this excuse; and the fact of the depredations being clear, and the law of nations indisputably in our favor, a further and more earnest appeal was made to the Neapolitan government. Mr. John Nelson, of Maryland, was appointed United States Chargé to Naples, and concluded a convention for the payment of the claims. The sum of two millions one hundred and fifteen thousand Neapolitan ducats was stipulated to be paid to the United States government, to be by it distributed among the claimants; and, being entirely satisfactory, the convention immediately received the American ratification. Thus, another head of injury to our citizens, and of twenty years' standing, was settled by General Jackson, and in a case in which the strongest prejudice and the most revolting repugnance had to be overcome. Murat had been shot by order of the Neapolitan king, for attempting to recover the kingdom; he was deemed a usurper while he had it; the exiled royal family thought themselves sufficiently wronged by him in their own persons, without being made responsible for his wrongs to others; and although bound by the law of nations to answer for his conduct while king in point of fact, yet for almost twenty years—from their restoration in 1814 to 1832—they had resisted and repulsed the incessant and just demands of the United States. Considering the sacrifice of pride, as well as the large compensation, which this branch of the Bourbons had to make in paying a bill of damages against an intrusive king of the Bonaparte dynasty, and this indemnity obtained from Naples in the third year of General Jackson's first presidential term, which had been refused to his three predecessors—Messrs. Madison, Monroe and John Quincy Adams—may be looked upon as one of the most remarkable of his diplomatic successes.

Spanish Indemnity Treaty.—The treaty of 1819 with Spain, by which we gained Florida and lost Texas, and paid five millions of dollars to our own citizens for Spanish spoliations, settled up all demands upon that power up to that time; but fresh causes of complaint soon grew up. All the Spanish-American states had become independent—had established their own forms of government—and commenced political and commercial communications with all the world. Spanish policy revolted at this escape of colonies from its hands; and although unable to subdue the new governments, was able to refuse to acknowledge their independence—able to issue paper blockades, and to seize and confiscate the American merchant vessels trading to the new states. In this way much damage had been done to American commerce, even in the brief interval between the date of the treaty of 1819 and General Jackson's election to the presidency, ten years thereafter. A new list of claims for spoliations had grown up; and one of the early acts of the new President was to intstitute a mission to demand indemnity. Mr. Cornelius Van Ness, of New-York, was the minister appointed; and having been refused in his first application, and given an account of the refusal to his government, President Jackson dispatched a special messenger to the American minister at Madrid, with instructions, "once more" to bring the subject to the consideration of the Spanish government; informing Congress at the same time, that he had made his last demand; and that, if justice was not done, he would bring the case before that body, "as the constitutional judge of what was proper to be done when negotiation fails to obtain redress for wrongs." But it was not found necessary to bring the case before Congress. On a closer examination of the claims presented and for the enforcement of which the power of the government had been invoked, it was found that there had occurred in this case what often takes place in reclamation upon foreign powers; that claims were preferred which were not founded in justice, and which were not entitled to the national interference. Faithful to his principle to ask

nothing but what was right, General Jackson ordered these unfounded claims to be dropped, and the just claims only to be insisted upon; and in communicating this fact to Congress, he declared his policy characteristically with regard to foreign nations, and in terms which deserve to be remembered. He said: "Faithful to the principle of asking nothing but what was clearly right, additional instructions have been sent to modify our demands, so as to embrace those only on which, according to the laws of nations, we had a strict right to insist upon." Under these modified instructions a treaty of indemnity was concluded (February, 1834), and the sum of twelve millions of reals vellon stipulated to be paid to the government of the United States, for distribution among the claimants. Thus, another instance of spoliation upon our foreign commerce, and the last that remained unredressed, was closed up and satisfied under the administration of General Jackson; and this last of the revolutionary men had the gratification to restore unmixed cordial intercourse with a power which had been our ally in the war of the Revolution; which had ceded to us the Floridas, to round off with a natural boundary our Southern territory; which was our neighbor, conterminous in dominions, from the Atlantic to the Pacific; and which, notwithstanding the jars and collisions to which bordering nations are always subject, had never committed an act of hostility upon the United States. The conclusion of this affair was grateful to all the rememberers of our revolutionary history, and equally honorable to both parties: to General Jackson, who renounced unfounded claims, and to the Spanish government, which paid the good as soon as separated from the bad.

6. Russian Commercial Treaty.—Our relations with Russia had been peculiar—politically, always friendly; commercially, always liberal—yet, no treaty of amity, commerce, and navigation, to assure these advantages and guarantee their continuance. The United States had often sought such a treaty. Many special missions, and of the most eminent citizens, and at various times, and under different administrations, and under the Congress of the confederation before there was any administration, had been instituted for that purpose—that of Mr. Francis Dana of Massachusetts (under whom the young John Quincy Adams, at the age of sixteen, served his diplomatic apprenticeship as private secretary), in 1784, under the old Congress; that of Mr. Rufus King, under the first Mr. Adams; that of Mr. John Quincy Adams, Mr. Albert Gallatin, Mr. James A. Bayard, and Mr. William Pinkney, under Mr. Monroe; that of Mr. George Washington Campbell, and Mr. Henry Middleton, under Mr. Monroe (the latter continued under Mr. John Quincy Adams); and all in vain. For some cause, never publicly explained, the guaranty of a treaty had been constantly declined, while the actual advantages of the most favorable one had been constantly extended to us. A convention with us for the definition of boundaries on the northwest coast of America, and to stipulate for mutual freedom of fishing and navigation in the North Pacific Ocean, had been readily agreed upon by the Emperor Alexander, and wisely, as by separating his claims, he avoided such controversies as afterwards grew up between the United States and Great Britain, on account of their joint occupation; but no commercial treaty. Every thing else was all that our interest could ask, or her friendship extend. Reciprocity of diplomatic intercourse was fully established; ministers regularly appointed to reside with us—and those of my time (I speak only of those who came within my Thirty Years' View), the Chevalier de Politica, the Baron Thuyl, the Baron Krudener, and especially the one that has remained longest among us, and has married an American lady, M. Alexandre de Bodisco—all of a personal character and deportment to be most agreeable to our government and citizens, well fitted to represent the feelings of the most friendly sovereigns, and to promote and maintain the most courteous and amicable intercourse between the two countries. The Emperor Alexander had signally displayed his good will in offering his mediation to terminate the war with Great Britain; and still further, in consenting to become arbitrator between the United States and Great Britain in settling their difference in the construction of the Ghent treaty, in the article relating to fugitive and deported slaves. We enjoyed in Russian ports all the commercial privileges of the most favored nation; but it was by an unfixed tenure—at the will of the reigning sovereign; and the interests of commerce required a more stable guaranty. Still, up to the commencement of General Jackson's administration, there was

no American treaty of amity, commerce, and navigation with that great power. The attention of President Jackson was early directed to this anomalous point; and Mr. John Randolph of Roanoke, then retired from Congress, was induced, by the earnest persuasions of the President, and his Secretary of State, Mr. Van Buren, to accept the place of envoy extraordinary and minister plenipotentiary to the Court of St. Petersburg—to renew the applications for the treaty which had so long been made in vain. Repairing to that post, Mr. Randolph found that the rigors of a Russian climate were too severe for the texture of his fragile constitution; and was soon recalled at his own request. Mr. James Buchanan, of Pennsylvania, was then appointed in his place; and by him the long-desired treaty was concluded, December, 1832—the Count Nesselrode the Russian negotiator, and the Emperor Nicholas the reigning sovereign. It was a treaty of great moment to the United States; for, although it added nothing to the commercial privileges actually enjoyed, yet it gave stability to their enjoyment; and so imparted confidence to the enterprise of merchants. It was limited to seven years' duration, but with a clause of indefinite continuance, subject to termination upon one year's notice from either party. Near twenty years have elapsed: no notice for its termination has ever been given; and the commerce between the two countries feels all the advantages resulting from stability and national guaranties. And thus was obtained, in the first term of General Jackson's administration, an important treaty with a great power, which all previous administrations and the Congress of the Confederation had been unable to obtain.

7. Portuguese Indemnity.—During the years 1829 and '30, during the blockade of Terceira, several illegal seizures were made of American vessels, by Portuguese men-of-war, for alleged violations of the blockade. The United States *chargé d'affairs* at Lisbon, Mr. Thomas L. Brent, was charged with the necessary reclamations, and had no difficulty in coming to an amicable adjustment. Indemnity in the four cases of seizure was agreed upon in March, 1832, and payment in instalments stipulated to be made. There was default in all the instalments after the first—not from bad faith, but from total inability—although the instalments were, in a national point of view, of small amount. It deserves to be recorded, as an instance of the want to which a kingdom, whose very name had been once the synonym of gold regions and diamond mines, may be reduced by wretched government, that in one of the interviews of the American *chargé* (then Mr. Edward Kavanagh), with the Portuguese Minister of Finance, the minister told him "that no persons in the employment of the government, except the military, had been paid any part of their salaries for a long time; and that, on that day, there was not one hundred dollars in the treasury." In this total inability to pay, and with the fact of having settled fairly, further time was given until the first day of July, 1837; when full and final payment was made, to the satisfaction of the claimants.

Indemnity was made to the claimants by allowing interest on the delayed payments, and an advantage was granted to an article of American commerce by admitting rice of the United States in Portuguese ports at a reduced duty. The whole amount paid was about $140,000, which included damages to some other vessels, and compensation to the seamen of the captured vessels for imprisonment and loss of clothes—the sum of about $1,600 for these latter items—so carefully and minutely were the rights of American citizens guarded in Jackson's time. Some other claims on Portugal, considered as doubtful, among them the case of the brave Captain Reid, of the privateer General Armstrong, were left open for future prosecution, without prejudice from being omitted in the settlement of the Terceira claims, which were a separate class.

8. Treaty with the Ottoman Empire.—At the commencement of the annual session of Congress of 1830–'31, President Jackson had the gratification to lay before the Senate a treaty of friendship and commerce between the United States and the Turkish emperor—the Sultan Mahmoud, noted for his liberal foreign views, his domestic reforms, his protection of Christians, and his energetic suppression of the janissaries—those formidable barbarian cohorts, worse than prætorian, which had so long dominated the Turkish throne. It was the first American treaty made with that power, and so declared in the preamble (and in terms which implied a personal compliment from the Porte in doing

now what it had always refused to do before), and was eminently desirable to us for commercial, political and social reasons. The Turkish dominions include what was once nearly the one half of the Roman world, and countries which had celebrity before Rome was founded. Sacred and profane history had given these dominions a venerable interest in our eyes. They covered the seat which was the birth-place of the human race, the cradle of the Christian religion; the early theatre of the arts and sciences; and contained the city which was founded by the first Roman Christian emperor. Under good government it had always been the seat of rich commerce and of great wealth. Under every aspect it was desirable to the United States to have its social, political and commercial intercourse with these dominions placed on a safe and stable footing under the guaranty of treaty stipulations; and this object was now accomplished. These were the general considerations; particular and recent circumstances gave them additional weight.

Exclusion of our commerce from the Black Sea, and the advantages which some nations had lately gained by the treaty of Adrianople, called for renewed exertions on our part; and they were made by General Jackson. A commissioner was appointed (Mr. Charles Rhind) to open negotiations with the Sublime Porte; and with him were associated the United States naval commander in the Mediterranean (Commodore Biddle), and the United States consul at Smyrna (Mr. David Offley). Mr. Rhind completed the negotiation, though the other gentlemen joined in the signature of the treaty. By the provisions of this treaty, our trade with the Turkish dominions was placed on the footing of the most favored nation; and being without limitation as to time, may be considered as perpetual, subject only to be abrogated by war, in itself improbable, or by other events not to be expected. The right of passing the Dardanelles and of navigating the Black Sea was secured to our merchant ships, in ballast or with cargo, and to carry the products of the United States and of the Ottoman empire, except the prohibited articles. The flag of the United States was to be respected. Factors, or commercial brokers, of any religion were allowed to be employed by our merchants. Consuls were placed on a footing of security, and travelling with passports was protected. Fairness and justice in suits and litigations were provided for. In questions between a citizen of the United States and a subject of the Sublime Porte, the parties were not to be heard, nor judgment pronounced, unless the American interpreter (dragoman) was present. In questions between American citizens the trial was to be before the United States minister or consul. "Even when they (the American citizens, so runs the fourth article), shall have committed some offence, they shall not be arrested and put in prison by the local authorities, but shall be tried by the minister or consul, and punished according to the offence." By this treaty all that was granted to other nations by the treaty of Adrianople is also granted to the United States, with the additional stipulation, to be always placed on the footing of the most favored nation—a stipulation wholly independent of the treaty exacted by Russia at Adrianople as the fruit of victories, and of itself equivalent to a full and liberal treaty; and the whole guaranteed by a particular treaty with ourselves, which makes us independent of the general treaty of Adrianople. A spirit of justice, liberality and kindness runs through it. Assistance and protection is to be given throughout the Turkish dominions to American wrecked vessels and their crews; and all property recovered from a wreck is to be delivered up to the American consul of the nearest port, for the benefit of the owners. Ships of war of the two countries are to exhibit towards each other friendly and courteous conduct, and Turkish ships of war are to treat American merchant vessels with kindness and respect. This treaty has now been in force near twenty years, observed with perfect good faith by each, and attended by all the good consequences expected from it. The valuable commerce of the Black Sea, and of all the Turkish ports of Asia Minor, Europe and Africa (once the finest part of the Roman world), travelling, residence, and the pursuit of business throughout the Turkish dominions, are made as safe to our citizens as in any of the European countries; and thus the United States, though amongst the youngest in the family of nations, besides securing particular advantages to her own citizens, has done her part in bringing those ancient countries into the system of modern European commercial policy, and in harmonizing people long estranged from each other.

9. Renewal of the treaty with Morocco.—A treaty had been made with this power in the time of the old Congress under the Confederation; and it is honorable to Morocco to see in that treaty, at the time when all other powers on the Barbary coast deemed the property of a Christian, lawful prey, and his person a proper subject for captivity, entering into such stipulations as these following, with a nation so young as the United States: "Neither party to take commissions from an enemy; persons and property captured in an enemy's vessel to be released; American citizens and effects to be restored; stranded vessels to be protected; vessels engaged in gunshot of forts to be protected; enemies' vessels not allowed to follow out of port for twenty-four hours; American commerce to be on the most favored footing; exchange of prisoners in time of war; no compulsion in buying or selling goods; no examination of goods on board, except contraband was proved; no detention of vessels; disputes between Americans to be settled by their consuls, and the consul assisted when necessary; killing punished by the law of the country; the effects of persons dying intestate to be taken care of, and delivered to the consul, and, if no consul, to be deposited with some person of trust; no appeal to arms unless refusal of friendly arrangements; in case of war, nine months to be allowed to citizens of each power residing in the dominions of the other to settle their affairs and remove." This treaty, made in 1787, was the work of Benjamin Franklin (though absent at the signature), John Adams, at London, and Thomas Jefferson, at Paris, acting through the agent, Thomas Barclay, at Fez; and was written with a plainness, simplicity and beauty, which I have not seen equalled in any treaty, between any nations, before or since. It was extended to fifty years, and renewed by General Jackson, in the last year of his administration, for fifty years more; and afterwards until twelve months' notice of a desire to abridge it should be given by one of the parties. The resident American consul at Tangier, Mr. James R. Leib, negotiated the renewal; and all the parties concerned had the good taste to preserve the style and language of the original throughout. It will stand, both for the matter and the style, a monument to the honor of our early statesmen.

10. Treaty of amity and commerce with Siam.—This was concluded in March, 1833, Mr. Edmund Roberts the negotiator on the part of the United States, and contained the provisions in behalf of American citizens and commerce which had been agreed upon in the treaty with the Sublime Porte, which was itself principally framed upon that with Morocco in 1787; and which may well become the model of all that may be made, in all time to come, with all the Oriental nations.

11. The same with the Sultan of Muscat.

Such were the fruits of the foreign diplomacy of President Jackson. There were other treaties negotiated under his administration—with Austria, Mexico, Chili, Peru, Bolivia, Venezuela—but being in the ordinary course of foreign intercourse, do not come within the scope of this View, which confines itself to a notice of such treaties as were new or difficult—which were unattainable by previous administrations; and those which brought indemnity to our citizens for spoliations committed upon them in the time of General Jackson's predecessors. In this point of view, the list of treaties presented, is grand and impressive; the bare recital of which, in the most subdued language of historical narrative, places the foreign diplomacy of General Jackson on a level with the most splendid which the history of any nation has presented. First, the direct trade with the British West Indies, which had baffled the skill and power of all administrations, from Washington to John Quincy Adams inclusive, recovered, established, and placed on a permanent and satisfactory footing. Then indemnities from France, Spain, Denmark, Naples, Portugal, for injuries committed on our commerce in the time of the great Napoleon. Then original treaties of commerce and friendship with great powers from which they never could be obtained before—Russia, Austria, the Sublime Porte. Then leaving his country at peace with all the world, after going through an administration of eight years which brought him, as a legacy from his predecessors, the accumulated questions of half an age to settle with the great powers. This is the eulogy of facts, worth enough, in the plainest language, to dispense with eulogium of words.

CHAPTER CXXXV.

SLAVERY AGITATION.

It is painful to see the unceasing efforts to alarm the South by imputations against the North of unconstitutional designs on the subject of slavery. You are right, I have no doubt, in believing that no such intermeddling disposition exists in the body of our Northern brethren. Their good faith is sufficiently guaranteed by the interest they have as merchants, as ship owners, and as manufacturers, in preserving a Union with the slaveholding States. On the other hand what madness in the South to look for greater safety in disunion. It would be worse than jumping into the fire for fear of the frying pan. The danger from the alarms is, that the pride and resentment exerted by them may be an overmatch for the dictates of prudence; and favor the project of a Southern convention, insidiously revived, as promising by its councils, the best securities against grievances of every sort from the North."—So wrote Mr. Madison to Mr. Clay, in June 1833. It is a writing every word of which is matter for grave reflection, and the date at the head of all. It is dated just three months after the tariff "compromise" of 1833, which, in arranging the tariff question for nine years, was supposed to have quieted the South —put an end to agitation, and to the idea of a Southern convention—and given peace and harmony to the whole Union. Not so the fact—at least not so the fact in South Carolina. Agitation did not cease there on one point, before it began on another: the idea of a Southern convention for one cause, was hardly abandoned before it was "insidiously revived" upon another. I use the language of Mr. Madison in qualifying this revival with a term of odious import: for no man was a better master of our language than he was—no one more scrupulously just in all his judgments upon men and things—and no one occupying a position either personally, politically, or locally, to speak more advisedly on the subject of which he spoke. He was pained to see the efforts to alarm the South on the subject of slavery, and the revival of the project for a Southern convention; and he feared the effect which these alarms should have on the pride and resentment of Southern people. His letter was not to a neighbor, or to a citizen in private life, but to a public man on the theatre of national action, and one who had acted a part in composing national difficulties. It was evidently written for a purpose. It was in answer to Mr. Clay's expressed belief, that no design hostile to Southern slavery existed in the body of the Northern people—to concur with him in that belief—and to give him warning that the danger was in another quarter—in the South itself: and that it looked to a dissolution of the Union. It was to warn an eminent public man of a new source of national danger, more alarming than the one he had just been composing.

About the same time, and to an old and confidential friend (Edward Coles, Esq., who had been his private secretary when President), Mr. Madison also wrote: "On the other hand what more dangerous than nullification, or more evident than the progress it continues to make, either in its original shape or in the disguises it assumes? Nullification has the effect of putting powder under the constitution and the Union, and a match in the hand of every party to blow them up at pleasure. And for its progress, hearken to the tone in which it is now preached: cast your eyes on its increasing minorities in the most of the Southern States, without a decrease in any of them. Look at Virginia herself, and read in the gazettes, and in the proceedings of popular meetings, the figure which the anarchical principle now makes, in contrast with the scouting reception given to it but a short time ago. It is not probable that this offspring of the discontents of South Carolina will ever approach success in a majority of the States: but a susceptibility of the contagion in the Southern States is visible: and the danger not to be concealed, that the sympathy arising from known causes, and the inculcated impression of a permanent incompatibility of interests between the South and the North, may put it in the power of popular leaders, aspiring to the highest stations, to unite the South on some critical occasion, in a course that will end in creating a new theatre of great though inferior interest. In pursuing this course, the first and most obvious step is nullification, the next secession, and the last a farewell separation."

In this view of the dangers of nullification in its new "disguise"—the susceptibility of the South to

its contagious influence—its fatal action upon an "inculcated incompatibility of interests" between the North and the South—its increase in the slave States — its progress, first to secession, and then to "farewell separation:" in this view of the old danger under its new disguise, Mr. Madison, then eighty-four years old, writes with the wisdom of age, the foresight of experience, the spirit of patriotism, and the "pain" of heart which a contemplation of the division of those States excited which it had been the pride, the glory, and the labor of his life to unite. The slavery turn which was given to the Southern agitation was the aspect of the danger which filled his mind with sorrow and misgiving:—and not without reason. A paper published in Washington City, and in the interest of Mr. Calhoun, was incessant in propagating the slavery alarm—in denouncing the North—in exhorting the Southern States to unity of feeling and concert of action as the only means of saving their domestic institutions. The language had become current in some parts of the South, that it was impossible to unite the Southern States upon the tariff question: that the sugar interest in Louisiana would prevent her from joining: that it was a mistake to have made that issue: that the slavery question was the right one. And coincident with this current language were many publications, urging a Southern convention, and concert of action. Passing by all these, which might be deemed mere newspaper articles, there was one which bore the impress of thought and authenticity—which assumed the convention to be a certainty, the time only remaining to be fixed, and the cause for it to be in full operation in the Northern States. It was published in the Charleston Mercury in 1835,—was entitled the "Crisis"—and had the formality of a manifesto; and after dilating upon the aggressions and encroachments of the North, proceeded thus:

"The proper time for a convention of the slaveholding States will be when the legislatures of Pennsylvania, Massachusetts and New-York shall have adjourned without passing laws for the suppression of the abolition societies. Should either of these States pass such laws, it would be well to wait till their efficacy should be tested. The adjournment of the legislatures of the Northern States without adopting any measures effectually to put down Garrison, Tappan and their associates, will present an issue which must be met by the South, or it will be vain for us ever after to attempt any thing further than for the State to provide for her own safety by defensive measures of her own. If the issue presented is to be met, it can only be done by a convention of the aggrieved States; the proceedings of which, to be of any value, must embody and make known the sentiments of the whole South, and contain the distinct annunciation of our fixed and unaltered determination to obtain the redress of our grievances, be the consequences what they may. We must have it clearly understood that, in framing a constitutional union with our Northern brethren, the slaveholding States consider themselves as no more liable to any more interference with their domestic concerns than if they had remained entirely independent of the other States, and that, as such interference would, among independent nations, be a just cause of war, so among members of such a confederacy as ours, it must place the several States in the relation towards each other of open enemies. To sum up in a few words the whole argument on this subject, we would say that the abolitionists can only be put down by legislation in the States in which they exist, and this can only be brought about by the embodied opinion of the whole South, acting upon public opinion at the North, which can only be effected through the instrumentality of a convention of the slaveholding States."

It is impossible to read this paragraph from the "Crisis," without seeing that it is identical with Mr. Calhoun's report and speech upon incendiary publications transmitted through the mail. The same complaint against the North; the same exaction of the suppression of abolition societies; the same penalty for omitting to suppress them; that penalty always the same—a Southern convention, and secession—and the same idea of the contingent foreign relation to each other of the respective States, always treated as a confederacy, under a compact. Upon his arrival at Washington at the commencement of the session 1835—'36, all his conduct was conformable to the programme laid down in the "Crisis," and the whole of it calculated to produce the event therein hypothetically announced; and, unfortunately, a double set of movements was then in the process of being carried on by the abolitionists, which favored his purposes. One of these was the mail transmission into the slave States of incendiary publications; and it has been seen in what manner he availed himself of that wickedness to predicate upon it a right of Southern secession; the other was the annoyance of Congress with a profusion of petitions for the abolition of slavery

in the District of Columbia; and his conduct with respect to these petitions, remains to be shown. Mr. Morris, of Ohio, presented two from that State, himself opposed to touching the subject of slavery in the States, but deeming it his duty to present those which applied to the District of Columbia. Mr. Calhoun demanded that they be read; which being done,—

"He demanded the question on receiving them, which, he said, was a preliminary question, which any member had a right to make. He demanded it on behalf of the State which he represented; he demanded it, because the petitions were in themselves a foul slander on nearly one half of the States of the Union; he demanded it, because the question involved was one over which neither this nor the House had any power whatever; and and a stop might be put to that agitation which prevailed in so large a section of the country, and which, unless checked, would endanger the existence of the Union. That the petitions just read contained a gross, false, and malicious slander, on eleven States represented on this floor, there was no man who in his heart could deny. This was, in itself, not only good, but the highest cause why these petitions should not be received. Had it not been the practice of the Senate to reject petitions which reflected on any individual member of their body; and should they who were the representatives of sovereign States permit petitions to be brought there, wilfully, maliciously, almost wickedly, slandering so many sovereign States of this Union? Were the States to be less protected than individual members on that floor? He demanded the question on receiving the petitions, because they asked for what was a violation of the constitution. The question of emancipation exclusively belonged to the several States. Congress had no jurisdiction on the subject, no more in this District than the State of South Carolina: it was a question for the individual State to determine, and not to be touched by Congress. He himself well understood, and the people of his State should understand, that this was an emancipation movement. Those who have moved in it regard this District as the weak point through which the first movement should be made upon the States. We (said Mr. C.), of the South, are bound to resist it. We will meet this question as firmly as if it were the direct question of emancipation in the States. It is a movement which ought to, which must be, arrested, *in limine*, or the guards of the constitution will give way and be destroyed. He demanded the question on receiving the petitions, because of the agitation which would result from discussing the subject. The danger to be apprehended was from the agitation of the question on that floor. He did not fear those incendiary publications which were circulated abroad, and which could easily be counteracted. But he dreaded the agitation which would rise out of the discussion in Congress on the subject. Every man knew that there existed a body of men in the Northern States who were ready to second any insurrectionary movement of the blacks; and that these men would be on the alert to turn these discussions to their advantage. He dreaded the discussion in another sense. It would have a tendency to break asunder this Union. What effect could be brought about by the interference of these petitioners? Could they expect to produce a change of mind in the Southern people? No; the effect would be directly the opposite. The more they were assailed on this point, the more closely would they cling to their institutions. And what would be the effect on the rising generation, but to inspire it with odium against those whose mistaken views and misdirected zeal menaced the peace and security of the Southern States. The effect must be to bring our institutions into odium. As a lover of the Union, he dreaded this discussion; and asked for some decided measure to arrest the course of the evil. There must, there shall be some decided step, or the Southern people never will submit. And how are we to treat the subject? By receiving these petitions one after another, and thus tampering, trifling, sporting with the feelings of the South? No, no, no! The abolitionists well understand the effect of such a course of proceeding. It will give importance to their movements, and accelerate the ends they propose. Nothing can, nothing will stop these petitions but a prompt and stern rejection of them. We must turn them away from our doors, regardless of what may be done or said. If the issue must be, let it come, and let us meet it, as, I hope, we shall be prepared to do."

This was new and extreme ground taken by Mr. Calhoun. To put the District of Columbia and the States on the same footing with respect to slavery legislation, was entirely contrary to the constitution itself, and to the whole doctrine of Congress upon it. The constitution gave to Congress exclusive jurisdiction over the District of Columbia, without limitation of subjects; but it had always refused, though often petitioned, to interfere with the subject of slavery in the District of Columbia so long as it existed in the two States (Maryland and Virginia) which ceded that District to the federal government. The doctrine of Mr. Calhoun was, therefore, new; his inference that slavery was to be attacked in the States through the opening in the District, was gratuitous; his "demand" (for that was the word he constantly used), that these petitions should be refused a reception,

was a harsh motion, made in a harsh manner; his assumption that the existence of the Union was at stake, was without evidence and contrary to evidence; his remedy, in State resistance, was disunion; his eagerness to catch at an "issue," showed that he was on the watch for "issues," and ready to seize any one that would get up a contest; his language was all inflammatory, and calculated to rouse an alarm in the slaveholding States:—for the whole of which he constantly assumed to speak. Mr. Morris thus replied to him:

"In presenting these petitions he would say, on the part of the State of Ohio, that she went to the entire extent of the opinions of the senator from South Carolina on one point. We deny, said he, the power of Congress to legislate concerning local institutions, or to meddle in any way with slavery in any of the States; but we have always entertained the opinion that Congress has primary and exclusive legislation over this District; under this impression, these petitioners have come to the Senate to present their petitions. The doctrine that Congress have no power over the subject of slavery in this District is to me a new one; and it is one that will not meet with credence in the State in which I reside. I believe these petitioners have the right to present themselves here, placing their feet on the constitution of their country, when they come to ask of Congress to exercise those powers which they can legitimately exercise. I believe they have a right to be heard in their petitions, and that Congress may afterwards dispose of these petitions as in their wisdom they may think proper. Under these impressions, these petitioners come to be heard, and they have a right to be heard. Is not the right of petition a fundamental right? I believe it is a sacred and fundamental right, belonging to the people, to petition Congress for the redress of their grievances. While this right is secured by the constitution, it is incompetent to any legislative body to prescribe how the right is to be exercised, or when, or on what subject; or else this right becomes a mere mockery. If you are to tell the people that they are only to petition on this or that subject, or in this or that manner, the right of petition is but a mockery. It is true we have a right to say that no petition which is couched in disrespectful language shall be received; but I presume there is a sufficient check provided against this in the responsibility under which every senator presents a petition. Any petition conveyed in such language would always meet with his decided disapprobation. But if we deny the right of the people to petition in this instance, I would ask how far they have the right. While they believe they possess the right, no denial of it by Congress will prevent them from exercising it."

Mr. Bedford Brown, of North Carolina, entirely dissented from the views presented by Mr. Calhoun, and considered the course he proposed, and the language which he used, exactly calculated to produce the agitation which he professed to deprecate. He said:

"He felt himself constrained, by a sense of duty to the State from which he came, deeply and vitally interested as she was in every thing connected with the agitating question which had unexpectedly been brought into discussion that morning, to present, in a few words, his views as to the proper direction which should be given to that and all other petitions relating to slavery in the District of Columbia. He felt himself more especially called on to do so from the aspect which the question had assumed, in consequence of the motion of the gentleman from South Carolina [Mr. Calhoun], to refuse to receive the petition. He had believed from the first time he had reflected on this subject, and subsequent events had but strengthened that conviction, that the most proper disposition of all such petitions was to lay them on the table, without printing. This course, while it indicated to the fanatics that Congress will yield no countenance to their designs, at the same time marks them with decided reprobation by a refusal to print. But, in his estimation, another reason gave to the motion to lay them on the table a decided preference over any other proceedings by which they should be met. The peculiar merit of this motion, as applicable to this question, is, that it precludes all debate, and would thus prevent the agitation of a subject in Congress which all should deprecate as fraught with mischief to every portion of this happy and flourishing confederacy. Mr. B. said that honorable gentlemen who advocated this motion had disclaimed all intention to produce agitation on this question. He did not pretend to question the sincerity of their declarations, and, while willing to do every justice to their motives, he must be allowed to say that no method could be devised better calculated, in his judgment, to produce such a result. He (Mr. B.) most sincerely believed that the best interests of the Southern States would be most consulted by pursuing such a course here as would harmonize the feelings of every section, and avoid opening for discussion so dangerous and delicate a question. He believed all the senators who were present a few days since, when a petition of similar character had been presented by an honorable senator, had, by their votes to lay it on the table, sanctioned the course which he now suggested. [Mr. Calhoun, in explanation, said that himself and his colleague were absent from the Senate on the occasion alluded to.] Mr. B. resumed his remarks, and said that he had made no reference to the votes of any particular members of that body, but what he had said was, that a similar

petition had been laid on the table without objection from any one, and consequently by a unanimous vote of the senators present. Here, then, was a most emphatic declaration, by gentlemen representing the Northern States as well as those from other parts of the Union, by this vote, that they will entertain no attempt at legislation on the question of slavery in the District of Columbia. Why, then, asked Mr. B., should we now adopt a mode of proceeding calculated to disturb the harmonious action of the Senate, which had been produced by the former vote? Why (he would respectfully ask of honorable gentlemen who press the motion to refuse to receive the petition) and for what beneficial purpose do they press it? By persisting in such a course it would, beyond all doubt, open a wide range of discussion, it would not fail to call forth a great diversity of opinion in relation to the extent of the right to petition under the constitution. Nor would it be confined to that question alone, judging from an expression which had fallen from an honorable gentleman from Virginia [Mr. TYLER], in the course of this debate. That gentleman had declared his preference for a direct negative vote by the Senate, as to the constitutional power of Congress to emancipate slaves in the District of Columbia. He, for one, protested, politically speaking, against opening this Pandora's box in the halls of Congress. For all beneficial and practical purposes, an overwhelming majority of the members representing the Northern States were, with the South, in opposition to any interference with slavery in the District of Columbia. If there was half a dozen in both branches of Congress who did not stand in entire opposition to any interference with slavery, in this District or elsewhere, he had yet to learn it. Was it wise, was it prudent, was it magnanimous, in gentlemen representing the Southern States, to urge this matter still further, and say to our Northern friends in Congress, 'Gentlemen, we all agree in the general conclusion, that Congress should not interfere in this question, but we wish to know your reasons for arriving at this conclusion; we wish you to declare, by your votes, whether you arrive at this result because you think it unconstitutional or not?' Mr. B. said that he would yield to none in zeal in sustaining and supporting, to the extent of his ability, what he believed to be the true interest of the South; but he should take leave to say that, when the almost united will of both branches of Congress, for all practical purposes, was with us, against all interference on this subject, he should not hazard the peace and quiet of the country by going on a Quixotic expedition in pursuit of abstract constitutional questions."

Mr. King, of Georgia, was still more pointed than Mr. Brown in deprecating the course Mr. Calhoun pursued, and charging upon it the effect of increasing the slavery agitation, and giving the abolitionists ground to stand upon in giving them the right of petition to defend. He said:

"This being among the Southern members a mere difference of form in the manner of disposing of the subject, I regret exceedingly that the senator from Carolina has thought it his duty (as he doubtless has) to press the subject upon the consideration of the Senate in such form as not only to permit, but in some measure to create, a necessity for the continued agitation of the subject. For he believed, with others, that nothing was better calculated to increase agitation and excitement than such motions as that of the senator from South Carolina. What was the object of the motion? Senators said, and no doubt sincerely, that their object was to quiet the agitation of the subject. Well, (said Mr. K.,) my object is precisely the same. We differ, then, only in the means of securing a common end; and he could tell the Senators that the value of the motion as a means would likely be estimated by its tendency to secure the end desired. Would even an affirmative vote on the motion quiet the agitation of the subject? He thought, on the contrary, it would much increase it. How would it stop the agitation? What would be decided? Nothing, except it be that the Senate would not receive the particular memorial before it. Would that prevent the presentation of others? Not at all; it would only increase the number, by making a new issue for debate, which was all the abolitionists wanted; or, at any rate, the most they now expected. These petitions had been coming here without intermission ever since the foundation of the government, and he could tell the senator that if they were each to be honored by a lengthy discussion on presentment, an honor not heretofore granted to them, they would not only continue to come here, but they would thicken upon us so long as the government remained in existence. We may seek occasions (said Mr. K.) to rave about our rights; we may appeal to the guaranties of the constitution, which are denied; we may speak of the strength of the South, and pour out unmeasured denunciations against the North; we may threaten vengeance against the abolitionists, and menace a dissolution of the Union, and all that; and thus exhausting ourselves mentally and physically, and setting down to applaud the spirit of our own efforts, Arthur Tappan and his pious fraternity would very coolly remark: 'Well, that is precisely what I wanted; I wanted agitation in the South; I wished to provoke the "aristocratic slaveholder" to make extravagant demands on the North, which the North could not consistently surrender them. I wished them, under the pretext of securing their own rights, to encroach upon the rights of all the American people. In short, I wish to change the issue; upon the present issue we are dead. Every movement, every de-

monstration of feeling among our own people, shows that upon the present issue the great body of the people is against us. The issue must be changed, or the prospects of abolition are at an end.' This language (Mr. K. said) was not conjectured, but there was much evidence of its truth. Sir (said Mr. K.), if Southern senators were actually in the pay of the abolition directory on Nassau-street they could not more effectually co-operate in the views and administer to the wishes of these enemies to the peace and quiet of our country."

Mr. Calhoun was dissatisfied at the speeches of Mr. Brown and Mr. King, and considered them as dividing and distracting the South in their opposition to his motion, while his own course was to keep them united in a case where union was so important, and in which they stood but a handful in the midst of an overwhelming majority. He said:

"I have heard with deep mortification and regret the speech of the senator from Georgia; not that I suppose that his arguments can have much impression in the South, but because of their tendency to divide and distract the Southern delegation on this, to us, all-momentous question. We are here but a handful in the midst of an overwhelming majority. It is the duty of every member from the South, on this great and vital question, where union is so important to those whom we represent, to avoid every thing calculated to divide or distract our ranks. I (said Mr. C.), the Senate will bear witness, have, in all that I have said on this subject, been careful to respect the feelings of Southern members who have differed from me in the policy to be pursued. Having thus acted, on my part, I must express my surprise at the harsh expressions, to say the least, in which the senator from Georgia has indulged."

The declaration of this overwhelming majority against the South brought a great number of the non-slaveholding senators to their feet, to declare the concurrence of their *States* with the South upon the subject of slavery, and to depreciate the abolitionists as few in number in any of the Northern States; and discountenanced, reprobated and repulsed wherever they were found. Among these, Mr. Isaac Hill of New Hampshire, thus spoke:

"I do not (said he) object to many of the positions taken by senators on the abstract question of Northern interference with slavery in the South. But I do protest against the excitement that is attempted on the floor of Congress, to be kept up against the North. I do protest against the array that is made here of the acts of a few misguided fanatics as the acts of the whole or of a large portion of the people of the North. I do protest against the countenance that is here given to the idea that the people of the North generally are interfering with the rights and property of the people of the South.

"There is no course that will better suit the few Northern fanatics than the agitation of the question of slavery in the halls of Congress—nothing will please them better than the discussions which are taking place, and a solemn vote of either branch denying them the right to prefer petitions here, praying that slavery may be abolished in the District of Columbia. A denial of that right at once enables them, and not without color of truth, to cry out that the contest going on is 'a struggle between power and liberty.'

"Believing the intentions of those who have moved simultaneously to get up these petitions at this time, to be mischief, I was glad to see the first petition that came in here laid on the table without discussion, and without reference to any committee. The motion to lay on the table precludes all debate; and, if decided affirmatively, prevents agitation. It was with the view of preventing agitation of this subject that I moved to lay the second set of petitions on the table. A senator from the South (Mr. Calhoun) has chosen a different course; he has interposed a motion which opens a debate that may be continued for months. He has chosen to agitate this question; and he has presented that question, the decision of which, let senators vote as they may, will best please the agitators who are urging the fanatics forward.

"I have said the people of the North were more united in their opposition to the plans of the advocates of antislavery, than on any other subject. This opposition is confined to no political party; it pervades every class of the community. They deprecate all interference with the subject of slavery, because they believe such interference may involve the existence and welfare of the Union itself, and because they understand the obligations which the non-slaveholding States owe to the slaveholding States by the compact of confederation. It is the strong desire to perpetuate the Union; it is the determination which every patriotic and virtuous citizen has made, in no event to abandon the 'ark of our safety,' that now impels the united North to take its stand against the agitators of the antislavery project. So effectually has the strong public sentiment put down that agitation in New England, that it is now kept alive only by the power of money, which the agitators have collected, and apply in the hiring of agents, and in issues from presses that are kept in their employ.

"The antislavery movement, which brings in petitions from various parts of the country asking Congress to abolish slavery in the District of Columbia, originates with a few persons, who have been in the habit of making charitable religious institutions subservient to political pur-

poses, and who have even controlled some of those charitable associations. The petitions are set on foot by men who have had, and who continue to have, influence with ministers and religious teachers of different denominations. They have issued and sent out their circulars calling for a united effort to press on Congress the abolition of slavery in this District. Many of the clergymen who have been instruments of the agitators, have done so from no bad motive. Some of them, discovering the purpose of the agitators—discovering that their labors were calculated to make the condition of the slave worse, and to create animosity between the people of the North and the South, have paused in their course, and desisted from the further application of a mistaken philanthropy. Others, having enlisted deeply their feelings, still pursue the unprofitable labor. They present here the names of inconsiderate men and women, many of whom do not know, when they subscribe their papers, what they are asking; and others of whom, placing implicit faith in their religious teacher, are taught to believe they are thereby doing a work of disinterested benevolence, which will be requited by rewards in a future life.

"Now, sir, as much as I abhor the doings of weak or wicked men who are moving this abolition question at the North, I yet have not as bad an opinion of them as I have of some others who are attempting to make of these puerile proceedings an object of alarm to the whole South.

"Of all the vehicles, tracts, pamphlets, and newspapers, printed and circulated by the abolitionists, there is no ten or twenty of them that have contributed so much to the excitement as a single newspaper printed in this city. I need not name this paper when I inform you that, for the last five years, it has been laboring to produce a Northern and Southern party—to fan the flame of sectional prejudice—to open wider the breach, to drive harder the wedge, which shall divide the North from the South. It is the newspaper which, in 1831–'2, strove to create that state of things, in relation to the tariff, which would produce inevitable collision between the two sections of the country, and which urged to that crisis in South Carolina, terminating in her deep disgrace——

"[Mr. Calhoun here interrupted Mr. Hill, and called him to order. Mr. H. took his seat, and Mr. Hubbard (being in the chair) decided that the remarks of Mr. H. did not impugn the motives of any man—they were only descriptive of the effects of certain proceedings upon the State of South Carolina, and that he was not out of order.]

"Mr. H. resumed: It is the newspaper which condemns or ridicules the well-meant efforts of an officer of the government to stop the circulation of incendiary publications in the slave-holding States, and which designedly magnifies the number and the efforts of the Northern abolitionists. It is the newspaper which libels the whole North by representing the almost united people of that region to be insincere in their efforts to prevent the mischief of a few fanatical and misguided persons who are engaged in the abolition cause.

"I have before me a copy of this newspaper (the *United States Telegraph*), filled to the brim with the exciting subject. It contains, among other things, a speech of an honorable senator (Mr. Leigh of Virginia), which I shall not be surprised soon to learn has been issued by thousands and tens of thousands from the abolition mint at New-York, for circulation in the South. Surely the honorable senator's speech, containing that part of the Channing pamphlet, is most likely to move the Southern slaves to a servile war, at the same time the Channing extracts and the speech itself are most admirably calculated to awaken the fears or arouse the indignation of their masters. The circulation of such a speech will effect the object of the abolitionists without trenching upon their funds. Let the agitation be kept up in Congress, and let this newspaper be extensively circulated in the South, filled with such speeches and such extracts as this exhibits, and little will be left for the Northern abolitionists to do. They need do no more than send in their petitions: the late printer of the Senate and his friends in Congress, will create enough of excitement to effect every object of those who direct the movements of the abolitionists."

At the same moment that these petitions were presented in the Senate, their counterparts were presented in the House, with the same declarations from Northern representatives in favor of the rights of the South, and in depreciation of the number and importance of the abolitionists in the North. Among these, Mr. Franklin Pierce, of New Hampshire, was one of the most emphatic on both points. He said:

"This was not the last memorial of the same character which would be sent here. It was perfectly apparent that the question must be met now, or at some future time, fully and explicitly, and such an expression of this House given as could leave no possible room to doubt as to the opinions and sentiments entertained by its members. He (Mr. P.), indeed, considered the overwhelming vote of the House, the other day, laying a memorial of similar tenor, and, he believed, the same in terms, upon the table, as fixing upon it the stamp of reprobation. He supposed that all sections of the country would be satisfied with that expression; but gentlemen seemed now to consider the vote as equivocal and evasive. He was unwilling that any imputation should rest upon the North, in consequence of the misguided and fanatical zeal of a few—comparatively very few—who, however

honest might have been their purposes, he believed had done incalculable mischief, and whose movements, he knew, received no more sanction among the great mass of the people of the North, than they did at the South. For one, he (Mr. P.), while he would be the last to infringe upon any of the sacred reserved rights of the people, was prepared to stamp with disapprobation, in the most express and unequivocal terms, the whole movement upon this subject. Mr. P. said he would not resume his seat without tendering to the gentleman from Virginia (Mr. Mason), just and generous as he always was, his acknowledgments for the admission frankly made in the opening of his remarks. He had said that, during the period that he had occupied a seat in this House (as Mr. P. understood him), he had never known six men seriously disposed to interfere with the rights of the slaveholders at the South. Sir, said Mr. P., gentlemen may be assured there was no such disposition as a general sentiment prevailing among the people; at least he felt confidence in asserting that, among the people of the State which he had the honor in part to represent, there was not one in a hundred who did not entertain the most sacred regard for the rights of their Southern brethren—nay, not one in five hundred who would not have those rights protected at any and every hazard. There was not the slightest disposition to interfere with any rights secured by the constitution, which binds together, and which he humbly hoped ever would bind together, this great and glorious confederacy as one family. Mr. P. had only to say that, to some sweeping charges of improper interference, the action of the people of the North at home, during the last year, and the vote of their representatives here the other day, was a sufficient and conclusive answer."

The newspaper named by Mr. Hill was entirely in the interest of Mr. Calhoun, and the course which it followed, and upon system, and incessantly to get up a slavery quarrel between the North and the South, was undeniable—every daily number of the paper containing the proof of its incendiary work. Mr. Calhoun would not reply to Mr. Hill, but would send a paper to the Secretary's table to be read in contradiction of his statements. Mr. Calhoun then handed to the Secretary a newspaper containing an article impugning the statement made by Mr. Pierce, in the House of Representatives, as to the small number of the abolitionists in the State of New Hampshire; which was read, and which contained scurrilous reflections on Mr. Pierce, and severe strictures on the state of slavery in the South. Mr. Hill asked for the title of the newspaper; and it was given, "*The Herald of Freedom.*" Mr. Hill said it was an abolition paper, printed, but not circulated, at Concord, New Hampshire. He said the same paper had been sent to him, and he saw in it one of Mr. Calhoun's speeches; which was republished as good food for the abolitionists; and said he thought the Senate was well employed in listening to the reading of disgusting extracts from an hireling abolition paper, for the purpose of impugning the statements of a member of the House of Representatives, defending the South there, and who could not be here to defend himself. It was also a breach of parliamentary law for a member in one House to attack what was said by a member in another. Mr. Pierce's statement had been heard with great satisfaction by all except Mr. Calhoun; but to him it was so repugnant, as invalidating his assertion of a great abolition party in the North, that he could not refrain from this mode of contradicting it. It was felt by all as disorderly and improper, and the presiding officer then in the chair (Mr. Hubbard, from New Hampshire) felt himself called upon to excuse his own conduct in not having checked the reading of the article. He said:

"He felt as if an apology was due from him to the Senate, for not having checked the reading of the paragraphs from the newspaper which had just been read by the Secretary. He was wholly ignorant of the contents of the paper, and could not have anticipated the purport of the article which the senator from South Carolina had requested the Secretary to read. He understood the senator to say that he wished the paper to be read, to show that the statement made by the senator from New Hampshire, as to the feelings and sentiments of the people of that State upon the subject of the abolition of slavery, was not correct. It certainly would have been out of order, for any senator to have alluded to the remarks made by a member of the House of Representatives, in debate; and, in his judgment, it was equally out of order to permit paragraphs from a newspaper to be read in the Senate, which went to impugn the course of any member of the other House; and he should not have permitted the paper to have been read, without the direction of the Senate, if he had been aware of the character of the article."

Mr. Calhoun said he was entitled to the floor and did not like to be interrupted by the chair he meant no disrespect to Mr. Pierce, "but wished the real state of things to be known"—as if an abolition newspaper was better author

ity than a statement from a member in his place in the House. It happened that Mr. Pierce was coming into the Senate Chamber as this reading scene was going on; and, being greatly surprised, and feeling much aggrieved, and having no right to speak for himself, he spoke to the author of this View to maintain the truth of his statement against the scurrilous contradiction of it which had been read. Mr. Benton, therefore, stood up—

"To say a word on the subject of Mr. Pierce, the member of the House of Representatives, from New Hampshire, whose statements in the House of Representatives had been contradicted in the newspaper article read at the Secretary's table. He had the pleasure of an intimate acquaintance with that gentleman, and the highest respect for him, both on his own account and that of his venerable and patriotic father, who was lately Governor of New Hampshire. It had so happened (said Mr. B.) that, in the very moment of the reading of this article, the member of the House of Representatives, whose statement it contradicted, was coming into the Senate Chamber, and his whitening countenance showed the deep emotion excited in his bosom. The statement which that gentleman had made in the House was in the highest degree consolatory and agreeable to the people of the slaveholding States. He had said that not one in five hundred in his State was in favor of the abolitionists: an expression understood by every body, not as an arithmetical proposition worked out by figures, but as a strong mode of declaring that these abolitionists were few in number. In that sense it was understood, and was a most welcome and agreeable piece of information to the people of the slaveholding States. The newspaper article contradicts him, and vaunts the number of the abolitionists, and the numerous signers to their petition. Now (said Mr. B.), the member of the House of Representatives (Mr. Pierce) has this moment informed me that he knows nothing of these petitions, and knows nothing to change his opinion as to the small number of abolitionists in his State. Mr. B. thought, therefore, that his statement ought not to be considered as discredited by the newspaper publication; and he, for one, should still give faith to his opinion."

In his eagerness to invalidate the statement of Mr. Pierce, Mr. Calhoun had overlooked a solecism of action in which it involved him. His bill to suppress the mail transmission of incendiary publications was still before the Senate, not yet decided; and here was matter read in the Senate, and to go forth as part of its proceedings, the most incendiary and diabolical that had yet been seen. This oversight was perceived by the author of this View, who, after vindicating the statement of Mr. Pierce, went on to expose this solecism, and—

"Took up the bill reported by the select committee on incendiary publications, and read the section which forbade their transmission by mail, and subjected the postmasters to fine and loss of office, who would put them up for transmission; and wished to know whether this incendiary publication, which had been read at the Secretary's table, would be included in the prohibition, after being so read, and thus becoming a part of our debates? As a publication in New Hampshire, it was clearly forbid; as part of our congressional proceedings would it still be forbid? There was a difficulty in this, he said, take it either away. If it could still be inculcated from this floor, then the prohibition in the bill was mere child's play; if it could not, and all the city papers which contained it were to be stopped, then the other congressional proceedings in the same paper would be stopped also; and thus the people would be prevented from knowing what their representatives were doing. It seemed to him to be but lame work to stop incendiary publications in the villages where they were printed, and then to circulate them from this chamber among the proceedings of Congress; and that, issuing from this centre, and spreading to all the points of the circumference of this extended Union, one reading here would give it ten thousand times more notoriety and diffusion than the printing of it in the village could do. He concluded with expressing his wish that the reporters would not copy into their account of debate the paper that was read. It was too offensive to the member of the House [Mr. Pierce], and would be too disagreeable to the people of the slaveholding States, to be entitled to a place in our debates, and to become a part of our congressional history, to be diffused over the country in gazettes, and transmitted to posterity in the volumes of debates. He hoped they would all omit it."

The reporters complied with this request, and the Congress debates were spared the pollution of this infusion of scurrility, and the permanent record of this abusive assault upon a member of the House because he was a friend to the South. But it made a deep impression upon senators; and Mr. King, of Georgia, adverted to it a few days afterwards to show the strangeness of the scene—Southern senators attacking their Northern friends because they defended the South. He said:

"It was known that there was a talented, patriotic, and highly influential member of the other House, from New Hampshire [Mr.

Pierce], to whose diligence and determined efforts he had heard attributed, in a great degree, the present prostrate condition of the abolitionists in that State. He had been the open and active friend of the South from the beginning, and had encountered the hostility of the abolitionists in every form. He had made a statement of the strength and prospects of the abolitionists in his State, near the commencement of the session, that was very gratifying to the people of the South. This statement was corroborated by one of the senators from that State a few days after, and the senator from Carolina rose, and, without due reflection, he was very sure, drew from his pocket a dirty sheet, an abolition paper, containing a scurrilous article against the member from New Hampshire, which pronounced him an impostor and a liar. The same thing in effect had just been repeated by the senator from Mississippi against one of the best friends of the South, Governor Marcy, of New-York. [Here Mr. Calhoun rose to explain, and said he had intended, by the introduction of the paper, no disrespect to the member from New Hampshire; and Mr. Black also rose to say he only wished to show the course the abolitionists were pursuing, and their future views.] Mr. King said he had been interrupted by the senators, but corrected by neither of them. He was not attacking their motives, but only exposing their mistakes. The article read by his friend from Carolina was abusive of the member from New Hampshire, and contradicted his statements. The article read by his friend from Mississippi against Governor Marcy was of a similar character. It abused, menaced, and contradicted him. These abusive productions would seem to be credited and adopted by those who used them as evidence, and incorporated them in their speeches. Here, then, was a contest in the North between the most open and avowed friends of the South and the abolitionists; and we had the strange exhibition of Southern gentlemen apparently espousing the cause of the latter, who were continually furnishing them evidence with which to aid them in the contest. Did gentlemen call this backing their friends? What encouragement did such treatment afford to our friends at the North to step forth in our behalf?"

Mr. King did not limit himself to the defence of Mr. Pierce, but went on to deny the increase of abolitionism at the North, and to show that it was dying out there until revived by agitation here. He said:

"A great deal had been stated in one form or other, and in one quarter or other, as to the numbers and increase of these disturbers of the peace; and he did not undertake to say what was the fact. He learned, and thought it probable, that they had increased since the commencement of the session, and had heard also the increase attributed to the manner in which the subject had been treated here. However this might be, what he insisted on was, that those base productions were no evidence of the fact, or of any fact; and especially should not be used by Southern men, in opposition to the statements of high-minded, honorable men at the North, who were the active and efficient friends of the South."

As an evidence of the manner in which the English emissary, George Thompson, had been treated in the North, upon whose labors so much stress had been laid in the South, Mr. King read from an English newspaper (the Leeds Mercury), Thompson's own account of his mission as written to his English employers; thus:

"Letters of a most distressing nature have been received from Mr. George Thompson, the zealous and devoted missionary of slave emancipation, who has gone from this country to the United States, and who writes from Boston. He says that 'the North (that is, New England, where slavery does not exist), has universally sympathized with the South,' in opposition to the abolitionists; that 'the North has let fall the mask;' that 'merchants and mechanics, priests and politicians, have alike stood forth the defenders of Southern despots, and the furious denouncers of Northern philanthropy;' that all parties of politics, especially the supporters of the two rivals for the presidential office (Van Buren and Webster), vie with each other in denouncing the abolitionists; and that even religious men shun them, except when the abolitionists can fairly gain a hearing from them. With regard to himself, he speaks as follows: 'Rewards are offered for my abduction and assassination; and in every direction I meet with those who believe they would be doing God and their country service by depriving me of life. I have appeared in public, and some of my escapes from the hands of my foes have been truly providential. On Friday last, I narrowly escaped losing my life in Concord, New Hampshire.' 'Boston, September 11.—This morning a short gallows was found standing opposite the door of my house, 23 Bay-street, in this city, now occupied by Garrison. Two halters hung from the beam, with the words above them, By order of Judge Lynch!'"

Mr. Hill corroborated the account which this emissary gave of his disastrous mission, and added that he had escaped from Concord in the night, and in woman's clothes: and then said:

"The present agitation in the North is kept up by the application of money; it is a state of things altogether forced. Agents are hired, dis-

guised in the character of ministers of the Gospel, to preach abolition of slavery where slavery does not exist; and presses are kept in constant employment to scatter abolition publications through the country. Deny the right of petition to the misguided men and women who are induced from no bad motive to petition for the abolition of slavery in the District of Columbia, and you do more to increase their numbers than will thousands of dollars paid to the emissaries who traverse the country to distribute abolition tracts and to spread abolition doctrines. Continue to debate abolition in either branch of Congress, and you more effectually subserve the incendiary views of the movers of abolition than any thing they can do for themselves. It may suit those who have been disappointed in all their political projects, to try what this subject of abolition will now avail them. Such men will be likely to find, in the end, that the people have too strong attachment for that happy Union, to which we owe all our prosperity and happiness, to be thrown from their propriety at every agitating blast which may be blown across the land."

Mr. Webster gave his opinion in favor of receiving the petitions, not to grant their prayer, but to yield to a constitutional right on the part of the petitioners; and said:

"He thought they ought to be received, referred, and considered. That was what was usually done with petitions on other subjects, and what had been uniformly done, heretofore, with petitions on this subject also. Those who believed they had an undoubted right to petition, and that Congress had undoubted constitutional authority over the subjects to which their petitions related, would not be satisfied with a refusal to receive the petitions, nor with a formal reception of them, followed by an immediate vote rejecting their prayer. In parliamentary forms there was some difference between these two modes of proceeding, but it would be considered as little else than a difference in mere form. He thought the question must at some time be met, considered, and discussed. In this matter, as in others, Congress must stand on its reasons. It was in vain to attempt to shut the door against petitions, and expect in that way to avoid discussion. On the presentment of the first of these petitions, he had been of opinion that it ought to be referred to the proper committee. He was of that opinion still. The subject could not be stifled. It must be discussed, and he wished it should be discussed calmly, dispassionately, and fully, in all its branches, and all its bearings. To reject the prayer of a petition at once, without reference or consideration, was not respectful; and in this case nothing could be possibly gained by going out of the usual course of respectful consideration."

The trial votes were had upon the petition of the Society of Friends, the Caln petition; and on Mr. Calhoun's motion to refuse to receive it. His motion was largely rejected—35 to 10. The vote to receive was: Messrs. Benton, Brown, Buchanan, Clay, Clayton, Crittenden, Davis, Ewing of Illinois, Ewing of Ohio, Goldsborough, Grundy, Hendricks, Hill, Hubbard, Kent, King of Alabama, King of Georgia, Knight, Linn, McKean, Morris, Naudain, Niles, Prentiss, Robbins, Robinson, Ruggles, Shepley, Southard, Swift, Tallmadge, Tipton, Tomlinson, Wall, Webster, Wright. The nays were: Messrs. Black, Calhoun, Cuthbert, Leigh, Moore, Nicholas, Porter, Preston, Walker, White.

The motion to reject the petition being thus lost (only a meagre minority of the Southern members voting for it), the motion to reject its prayer next came on; and on that motion Mr. Calhoun refused to vote, saying:

"The Senate has by voting to receive this petition, on the ground on which the reception was placed, assumed the principle that we are bound to receive petitions to abolish slavery, whether in this District or the States; that is, to take jurisdiction of the question of abolishing slavery whenever and in whatever manner the abolitionists may think proper to present the question. He considered this decision pregnant with consequences of the most disastrous character. When and how they were to occur it was not for him to predict; but he could not be mistaken in the fact that there must follow a long train of evils. What, he would ask, must hereafter be the condition on this floor of the senators from the slaveholding States? No one can expect that what has been done will arrest the progress of the abolitionists. Its effects must be the opposite, and instead of diminishing must greatly increase the number of the petitions. Under the decision of the Senate, we of the South are doomed to sit here and receive in silence, however outrageous or abusive in their language towards us and those whom we represent, the petitions of the incendiaries who are making war on our institutions. Nay, more, we are bound, without the power of resistance to see the Senate, at the request of these incendiaries, whenever they think proper to petition, extend its jurisdiction on the subject of slavery over the States as well as this District. Thus deprived of all power of effectual resistance, can any thing be considered more hopeless and degrading than our situation; to sit here, year after year, session after session, hearing ourselves and our constituents vilified by thousands of incendiary publications in the form of petitions, of which the Senate, by its decision, is bound to take jurisdiction, and against which we must rise like culprits to defend ourselves, or permit them to go uncontradicted and un-

resisted? We must ultimately be not only degraded in our own estimation and that of the world, but be exhausted and worn out in such a contest."

This was a most unjustifiable assumption on the part of Mr. Calhoun, to say that in voting to receive this petition, confined to slavery in the District of Columbia, the Senate took jurisdiction of the question in the States—jurisdiction of the question of abolishing slavery whenever, and in whatever manner, the abolitionists might ask. It was unjustifiable towards the Senate, and giving a false alarm to the South. The thirty-five senators voting to receive the petition wholly repudiated the idea of interfering with slavery in the States. Twelve of them were from the slaveholding States, so that Mr. Calhoun was outvoted in his own half of the Union. The petition itself was confined to the object of emancipation and the suppression of the slave trade in the District of Columbia, where it alleged, and truly that Congress possessed jurisdiction; and there was nothing either in the prayer, or in the language of the petition to justify the inferences drawn from its reception, or to justify the assumption that it was an insult and outrage to the senators from the slaveholding States. It was a brief and temperate memorial in these words:

"The memorial of Caln Quarterly Meeting of the Religious Society of Friends, commonly called Quakers, respectfully represents: That, having long felt deep sympathy with that portion of the inhabitants of these United States which is held in bondage, and having no doubt that the happiness and interests, moral and pecuniary, of both master and slave, and our whole community, would be greatly promoted if the inestimable right to liberty was extended equally to all, we contemplate with extreme regret that the District of Columbia, over which you possess entire control, is acknowledged to be one of the greatest marts for the traffic in the persons of human beings in the known world, notwithstanding the principles of the constitution declare that all men have an unalienable right to the blessing of liberty. We therefore earnestly desire that you will enact such laws as will secure the right of freedom to every human being residing within the constitutional jurisdiction of Congress, and prohibit every species of traffic in the persons of men, which is as inconsistent in principle and inhuman in practice as the foreign slave trade."

This was the petition. It was in favor of emancipation in the District, and prayed the suppression of the slave trade in the District; and neither of these objects had any relation to emancipation or the slave trade, in the States. Mr. Preston, the colleague of Mr. Calhoun, gave his reasons for voting to reject the prayer of the petition, having failed in his first object to reject the petition itself: and Mr. Davis, of Massachusetts, repulsed the inferences and assumptions of Mr. Calhoun in consequence of the vote to receive the petition. He denied the justice of any suggestion that it portended mischief to the South, to the constitution, or to the Union; or that it was to make the District the head-quarters of abolitionists, and the stepping-stone and entering wedge to the attack of slavery in the States: and said:

"Neither the petition on which the debate had arisen, nor any other that he had seen, proposed directly or indirectly to disturb the Union, unless the abolition of slavery in this District, or the suppression or regulation of the slave trade within it, would have that effect. For himself, Mr. D. believed no purpose could be further than this from the minds of the petitioners. He could not determine what thoughts or motives might be in the minds of men, but he judged by what was revealed; and he could not persuade himself that these petitioners were not attached to the Union and that they had (as had been suggested) any ulterior purpose of making this District the head-quarters of future operation—the stronghold of anti-slavery—the stepping-stone to an attack upon the constitutional rights of the South. He was obliged to repudiate these inferences as unjust, for he had seen no proof to sustain them in any of the petitions that had come here. The petitioners entertained opinions coincident with their fellow-citizens as to the power of Congress to legislate in regard to slavery in this District; and being desirous that slavery should cease here, if it could be abolished upon just principles; and, if not, that the traffic carried on here from other quarters should be suppressed or regulated, they came here to ask Congress to investigate the matter. This was all; and he could see no evidence in it of a clandestine purpose to disregard the constitution or to disturb the Union."

The vote was almost unanimous on Mr. Buchanan's motion—34 to 6; and those six against it, not because they were in favor of granting the prayer of the memorialists, but because they believed that the petition ought to be referred to a committee, reported upon, and then rejected—which was the ancient mode of treating such petitions; and also the mode in which they were now treated in the House of Representatives. The vote was:

Yeas—Messrs. Benton, Black, Brown, Buchanan, Clay, Crittenden, Cuthbert, Ewing of Illinois, Ewing of Ohio, Goldsborough, Grundy, Hill, Hubbard, King of Alabama, King of Georgia, Leigh, Linn, McKean, Moore, Nicholas, Niles, Porter, Preston, Robbins, Robinson, Ruggles, Shepley, Tallmadge, Tipton, Tomlinson, Walker, Wall, White, Wright—34.

"Nays—Messrs. Davis, Hendricks, Knight, Prentiss, Swift, Webster—6."

After this decision, Mr. Webster gave notice that he had in hand several similar petitions, which he had forborne to present till this one from Pennsylvania should be disposed of; and that now he should, on an early occasion, present them, and move to dispose of them in the way in which it had been his opinion from the first that all such petitions should have been treated; that is, referred to a committee for consideration and inquiry.

The action of the House of Representatives will now be seen on the subject of these petitions; for duplicates of the same generally went to that body; and there, under the lead of a South Carolina member, and with large majorities of the House, they were disposed of very differently from the way that Mr. Calhoun demanded in the Senate, and in the way that he deemed so fatal to the slaveholding States. Mr. Henry L. Pinckney, of the Charleston district, moved that it be—

"*Resolved*, That all the memorials which have been offered, or may hereafter be presented to this House, praying for the abolition of slavery in the District of Columbia; and also the resolutions offered by an honorable member from Maine (Mr. Jarvis), with the amendment thereto proposed by an honorable member from Virginia (Mr. Wise), together with every other paper or proposition that may be submitted in relation to the subject, be referred to a select committee, with instructions to report: that Congress possesses no constitutional authority to interfere in any way with the institution of slavery in any of the States of this confederacy: and that in the opinion of this House, Congress ought not to interfere, in any way, with slavery in the District of Columbia, because it would be a violation of the public faith, unwise, impolitic, and dangerous to the Union. Assigning such reasons for these conclusions, as, in the judgment of the committee, may be best calculated to enlighten the public mind, to allay excitement, to repress agitation, to secure and maintain the just rights of the slave-holding States, and of the people of this District, and to restore harmony and tranquillity amongst the various sections of this Union."

On putting the question the motion was divided, so as to have a separate vote on the different propositions of the resolve; and each was carried by large, and some by nearly unanimous majorities. On the first division, To refer all the memorials to a select committee, the vote was 174 to 48. On the second division. That Congress possesses no constitutional authority to interfere, in any way, with the institution of slavery in any of the States, the vote was 201 to 7—the seven negatives being Mr. John Quincy Adams, Mr. Harmer Denny of Pennsylvania, Mr. William Jackson, Mr. Horace Everett of Vermont, Mr. Rice Garland of Louisiana, Mr. Thomas Glascock of Georgia, Mr. William Jackson, Mr. John Robertson of Virginia; and they, because opposed to voting on such a proposition, deemed gratuitous and intermeddling. On the third division, of the resolve, That Congress ought not to interfere in any way with slavery in the District of Columbia, the vote stood 163 to 47. And on the fourth division, giving as reasons for such non-interference, Because it would be a violation of the public faith, unwise, impolitic, and dangerous to the Union, the vote was, 127 to 75. On the last division, To assign reasons for this report, the vote stood 167 to 6. So the committee was ordered, and consisted of Mr. Pinckney, Mr. Hamer of Ohio, Mr. Pierce of New Hampshire, Mr. Hardin of Kentucky, Mr. Jarvis of Maine, Mr. Owens of Georgia, Mr. Muhlenberg of Pennsylvania, Mr. Dromgoole of Virginia, and Mr. Turrill of New-York. The committee reported, and digested their report into two resolutions, *first*, That Congress possesses no constitutional authority to interfere, in any way, with the institution of slavery in any State of this confederacy. *Secondly*, That Congress ought not to interfere in any way with slavery in the District of Columbia. And, "for the purpose of arresting agitation, and restoring tranquillity to the public mind," they recommended the adoption of this resolve: "That all petitions, memorials, resolutions, propositions, or papers relating in any way to the subject of slavery, or the abolition of slavery, shall, without either being printed or referred, be laid upon the table; and that no further action whatever be had upon them." All these resolutions were adopted; and the latter one by a vote of 117 to 68; so that the House camo

to the same course which the Senate had taken in relation to these memorials. Mr. Adams, whose votes, taken by themselves, might present him as acting with the abolitionists, was entirely opposed to their objects, and was governed by a sense of what appeared to him to be the right of petition, and also the most effectual way of putting an end to an agitation which he sincerely deprecated. And on this point it is right that he should be heard for himself, as speaking for himself when Mr. Pinckney's motion was before the House. He then said:

"But, sir, not being in favor of the object of the petitions, I then gave notice to the House and to the country, that upon the supposition that these petitions had been transmitted to me under the expectation that I should present them, I felt it my duty to say, I should not support them. And, sir, the reason which I gave at that time for declining to support them was precisely the same reason which the gentleman from Virginia now gives for reconsidering this motion—namely, to keep the discussion of the subject out of the House. I said, sir, that I believed this discussion would be altogether unprofitable to the House and to the country; but, in deference to the sacred right of petition, I moved that these fifteen petitions, all of which were numerously signed, should be referred to the Committee on the District of Columbia, at the head of which was, at that time, a distinguished citizen of Virginia, now, I regret to say—and the whole country has occasion to regret—no more. These petitions were thus referred, and, after a short period of time, the chairman of the Committee on the District of Columbia made a report to this House, which report was read, and unanimously accepted; and nothing more has been heard of these petitions from that day to this. In taking the course I then took, I was not sustained by the unanimous voice of my own constituents; there were many among them, persons as respectable and as entitled to consideration as any others, who disapproved of the course I pursued on that occasion.

"Attempts were made within the district I then represented to get up meetings of the people to instruct me to pursue a different course, or to multiply petitions of the same character. These efforts were continued during the whole of that long session of Congress; but, I am gratified to add, without any other result than that, from one single town of the district which I had the honor to represent, a solitary petition was forwarded before the close of the session, with a request that I would present it to the House. Sir, I did present it, and it was referred to the same Committee on the District of Columbia, and I believe nothing more has been heard of it since. From the experience of this session, I was perfectly satisfied that the true and only method of keeping this subject out of discussion was, to take that course; to refer all petitions of this kind to the Committee on the District of Columbia, or some other committee of the House, to receive their report, and to accept it unanimously. This does equal justice to all parties in the country; it avoids the discussion of this agitating question on the one hand, and, on the other, it pays a due respect to the right of the constituent to petition. Two years afterwards, similar petitions were presented, and at that time an effort made, without success, to do that which has now been done successfully in one instance. An effort was made to lay these petitions on the table; the House did not accede to the proposition: they referred the petitions as they had been before referred, and with the same result. For, from the moment that these petitions are referred to the Committee on the District of Columbia, they go to the family vault 'of all the Capulets,' and you will never hear of them afterwards.

"At the first session of the last Congress, a gentleman from the State of New-York, a distinguished member of this House, now no longer here, which I regret to say, although I do not doubt that his place is well supplied, presented one or more petitions to this effect, and delivered a long and eloquent speech of two hours in support of them. And what was the result? He was not answered: not a word was said, but the vote of the House was taken; the petitions were referred to the Committe on the District, and we have heard nothing more of them since. At the same session, or probably at the very last session, a distinguished member of this House, from the State of Connecticut, presented one or more petitions to the same effect, and declared in his place that he himself concurred in all the opinions expressed. Did this declaration light up the flame of discord in this House? Sir, he was heard with patience and complacency. He moved the reference of the petitions to the Committee on the District of Columbia, and there they went to sleep the sleep of death. Mr. Adams, speaking from recollection, was [the reporter is requested by him to state] mistaken with respect to the reference of the petitions presented at the last session of Congress to the committee. They were then for the first time laid on the table, as was the motion to print one of them. At the preceding session of the last Congress, as at all former times, all such petitions had been referred to committees and printed when so desired. Why not adopt the same course now? Here is a petition which has been already referred to the Committee on the District of Columbia. Leave it there, and, my word for it, sir, you will have just such a result as has taken place time after time before. Your Committee on the District certainly is not an abolition committee. You will have a fit, proper, and able report from them; the House, *sub silentio*, will adopt it, and you will hear no more about it.

But if you are to reconsider the vote, and to lay these petitions on the table; if you come to the resolution that this House will not receive any more petitions, what will be the consequence? In a large portion of this country every individual member who votes with you will be left at home at the next election, and some one will be sent who is not prepared to lay these petitions on the table."

There was certainly reason in what Mr. Adams proposed, and encouragement to adopt his course, from the good effect which had already attended it in other cases; and from the further good effect which he affirmed, that, in taking that course, the committee and the House would have come to the same conclusion by a unanimous, instead of a divided vote, as at present. His course was also conformable to that of the earliest action of Congress upon the subject. It was in the session of Congress of 1789–'90—being the first under the constitution—that the two questions of abolishing the foreign slave trade, and of providing for domestic emancipation, came before it; and then, as in the case of the Caln Memorial, from the Religious Society of Friends, there was discussion as to the mode of acting upon it—which ended in referring the memorial to a special committee, without instructions. That committee, a majority being from the non-slaveholding States, reported against the memorial on both points; and on the question of emancipation in the States, the resolve which the committee recommended (after having been slightly altered in phraseology), read thus: "*That Congress have no authority to interfere in the emancipation of slaves, or in the treatment of them within any of the States; it remaining with the several States to provide any regulations therein which humanity and true policy may require.*" And under this resolve, and this treatment of the subject, the slavery question was then quieted; and remained so until revived in our own time. In the discussion which then took place Mr. Madison was entirely in favor of sending the petition to a committee; and thought the only way to get up an agitation in the country, would be by opposing that course. He said:

"The question of sending the petition to a committee was no otherwise important than as gentlemen made it so by their serious opposition. Had they permitted the commitment of the memorial, as a matter of course, no notice would have been taken of it out of doors: it could never have been blown up into a decision of the question respecting the discouragement of the African slave trade, nor alarm the owners with an apprehension that the general government were about to abolish slavery in all the States. Such things are not contemplated by any gentleman, but they excite alarm by their extended objections to committing the memorials. The debate has taken a serious turn; and it will be owing to this alone if an alarm is created: for, had the memorial been treated in the usual way, it would have been considered, as a matter of course; and a report might have been made so as to give general satisfaction. If there was the slightest tendency by the commitment to break in upon the constitution, he would object to it: but he did not see upon what ground such an event could be apprehended. The petition did not contemplate even a breach of the constitution: it prayed, in general terms, for the interference of Congress so far as they were constitutionally authorized."

This chapter opens and concludes with the words of Mr. Madison. It is beautiful to behold the wise, just, and consistent course of that virtuous and patriotic man—the same from the beginning to the ending of his life; and always in harmony with the sanctity of the laws, the honor and interests of his country, and the peace of his fellow-citizens. May his example not be lost upon us. This chapter has been copious on the subject of slavery. It relates to a period when a new point of departure was taken on the slave question; when the question was carried into Congress with avowed alternatives of dissolving the Union; and conducted in a way to show that dissolution was an object to be attained, not prevented; and this being the starting point of the slavery agitation which has since menaced the Union, it is right that every citizen should have a clear view of its origin, progress, and design. From the beginning of the Missouri controversy up to the year 1835, the author of this View looked to the North as the point of danger from the slavery agitation: since that time he has looked to the South for that danger, as Mr. Madison did two years earlier. Equally opposed to it in either quarter, he has opposed it in both.

CHAPTER CXXXVI.

REMOVAL OF THE CHEROKEES FROM GEORGIA.

THE removal of the Creek Indians from this State was accomplished by the treaty of 1826, and that satisfied the obligations of the United States to Georgia, under the compact of 1802, so far as the Creek tribe was concerned. But the same obligation remained with respect to the Cherokees, contracted at the same time, and founded on the same valuable consideration, namely: the cession by Georgia to the United States of her western territory, now constituting the two States of Alabama and Mississippi. And twenty-five years' delay, and under incessant application, the compact had been carried into effect with respect to the Creeks; it was now thirty-five years since it was formed, and it still remained unexecuted with respect to the Cherokees. Georgia was impatient and importunate, and justly so, for the removal of this tribe, the last remaining obstacle to the full enjoyment of all her territory. General Jackson was equally anxious to effect the removal, both as an act of justice to Georgia, and also to Alabama (part of whose territory was likewise covered by the Cherokees), and also to complete the business of the total removal of all the Indians from the east to the west side of the Mississippi. It was the only tribe remaining in any of the States, and he was in the last year of his presidency, and the time becoming short, as well as the occasion urgent, and the question becoming more complex and difficult. Part of the tribe had removed long before. Faction split the remainder that staid behind. Intrusive counsellors, chiefly from the Northern States, came in to inflame dissension, aggravate difficulties, and impede removal. For climax to this state of things, party spirit laid hold of it, and the politicians in opposition to General Jackson endeavored to turn it to the prejudice of his administration. Nothing daunted by this combination of obstacles, General Jackson pursued his plan with firmness and vigor, well seconded by his Secretary at War, Mr. Cass—the War Department being then charged with the administration of the Indian affairs. In the autumn of 1835, a commission had been appointed to treat with the half tribe in Georgia and Alabama. It was very judiciously composed to accomplish its purpose, being partly military and partly ecclesiastic. General William Carroll, of Tennessee, well known to all the Southern Indians as a brave and humane warrior, and the Reverend John F. Schermerhorn, of New-York, well known as a missionary laborer, composed the commission; and it had all the success which the President expected.

In the winter of 1835–'36, a treaty was negotiated, by which the Cherokees, making clean disposal of all their possessions east of the Mississippi, ceded the whole, and agreed to go West, to join the half tribe beyond that river. The consideration paid them was ample, and besides the moneyed consideration, they had large inducements, founded in views of their own welfare, to make the removal. These inducements were set out by themselves in the preamble to the treaty, and were declared to be: "A desire to get rid of the difficulties experienced by a residence within the settled parts of the United States; and to reunite their people, by joining those who had crossed the Mississippi; and to live in a country beyond the limits of State sovereignties, and where they could establish and enjoy a government of their choice, and perpetuate a state of society, which might be most consonant with their views, habits, and condition, and which might tend to their individual comfort, and their advancement in civilization." These were sensible reasons for desiring a removal, and, added to the moneyed consideration, made it immensely desirable to the Indians. The direct consideration was five millions of dollars, which, added to stipulations to pay for the improvements on the ceded lands—to defray the expenses of removal to their new homes beyond the Mississippi—to subsist them for one year after their arrival—to commute school funds and annuities—to allow pre-emptions and pay for reserves—with some liberal grants of money from Congress, for the sake of quieting complaints—and some large departmental allowances, amounted, in the whole, to more than twelve millions of dollars! Being almost as much for their single extinction of Indian title in the corner of two States, as the whole province of Louisiana cost! And this in addition to seven millions of acres granted for their new home, and making a larger and a better home

than the one they had left. Considered as a moneyed transaction, the advantage was altogether, and out of all proportion, on the side of the Indians; but relief to the States, and quiet to the Indians, and the completion of a wise and humane policy, were overruling considerations, which sanctioned the enormity of the amount paid.

Advantageous as this treaty was to the Indians, and desirable as it was to both parties, it was earnestly opposed in the Senate; and only saved by one vote. The discontented party of the Cherokees, and the intrusive counsellors, and party spirit, pursued it to Washington city, and organized an opposition to it, headed by the great chiefs then opposed to the administration of General Jackson—Mr. Clay, Mr. Webster, and Mr. Calhoun. Immediately after the treaty was communicated to the Senate, Mr. Clay presented a memorial and protest against it from the "Cherokee nation," as they were entitled by the faction that protested; and also memorials from several individual Cherokees; all which were printed and referred to the Senate's Committee on Indian Affairs, and duly considered when the merits of the treaty came to be examined. The examination was long and close, extending at intervals for nearly three months —from March 7th to the end of May—and assuming very nearly a complete party aspect. On the 18th of May Mr. Clay made a motion which, as disclosing the grounds of the opposition to the treaty, deserves to be set out in its own words. It was a motion to reject the resolution of ratification, and to adopt this resolve in its place: "That the instrument of writing, purporting to be a treaty concluded at New Echota on the 29th of December, 1835, between the United States and the chiefs, head men and people of the Cherokee tribe of Indians, and the supplementary articles thereto annexed, were not made and concluded by authority, on the part of the Cherokee tribe, competent to bind it; and, therefore, without reference to the terms and conditions of the said agreement and supplementary articles, the Senate cannot consent to and advise the ratification thereof, as a valid treaty, binding upon the Cherokee tribe or nation;" concluding with a recommendation to the President to treat again with the Cherokees east of the Mississippi for the whole, or any of their possessions on this side of that river. The vote on this resolve and recommendation was, 29 yeas to 15 nays; and it requiring two-thirds to adopt it, it was, of course, lost. But it showed that the treaty itself was in imminent danger of being lost, and would actually be lost, in a vote, as the Senate then stood. The whole number of the Senate was forty-eight; only forty-four had voted. There were four members absent, and unless two of these could be got in, and vote with the friends of the treaty, and no one got in on the other side, the treaty was rejected. It was a close pinch, and made me recollect what I have often heard Mr. Randolph say, that there were always members to get out of the way at a pinching vote, or to lend a hand at a pinching vote. Fortunately the four absent senators were classified as friends of the administration, and two of them came in to our side, the other two refusing to go to the other side: thus saving the treaty by one vote. The vote stood, thirty-one for the treaty, fifteen against it; and it was only saved by a strong Northern vote. The yeas were: Messrs. Benton of Missouri; Black of Mississippi; Brown of North Carolina; Buchanan of Pennsylvania; Cuthbert of Georgia; Ewing of Illinois; Goldsborough of Maryland; Grundy of Tennessee; Hendricks of Indiana; Hubbard of New Hampshire; Kent of Maryland; King of Alabama; King of Georgia; Linn of Missouri; McKean of Pennsylvania; Mangum of North Carolina; Moore of Alabama; Morris of Ohio; Niles of Connecticut; Preston of South Carolina; Rives of Virginia; Robinson of Illinois; Ruggles and Shepley of Maine; N. P. Tallmadge of New-York; Tipton of Illinois; Walker of Mississippi; Wall of New Jersey; White of Tennessee; and Wright of New-York—31. The nays were: Messrs. Calhoun of South Carolina; Clay of Kentucky; Clayton of Delaware; Crittenden of Kentucky; Davis of Massachusetts; Ewing of Ohio; Leigh of Virginia; Naudain of Delaware, Porter of Louisiana; Prentiss of Vermont; Robbins of Rhode Island; Southard of New Jersey; Swift of Vermont; Tomlinson of Connecticut; and Webster of Massachusetts—15. Thus the treaty was barely saved. One vote less in its favor, or one more against it, and it would have been lost. Two members were absent. If either had come in and voted with the opposition, it would have been lost. It was saved by the free State vote—by the fourteen

free State affirmative votes, which precisely balanced and neutralized the seven slave State negatives. If any one of these fourteen had voted with the negatives, or even been absent at the vote, the treaty would have been lost; and thus the South is indebted to the North for this most important treaty, which completed the relief of the Southern States—the Chickasaws, Creeks and Choctaws having previously agreed to remove, and the treaties with them (except with the Creeks) having been ratified without serious opposition.

The ratification of this treaty for the removal of the Cherokees was one of the most difficult and delicate questions which we ever had to manage, and in which success seemed to be impossible up to the last moment. It was a Southern question, involving an extension of slavery, and was opposed by all three of the great opposition leaders; who only required a minority of one third to make good their point. At best, it required a good Northern vote, in addition to the undivided South, to carry the treaty; but, with the South divided, it seemed hardly possible to obtain the requisite number to make up for that defection; yet it was done, and done at the very time that the systematic plan had commenced, to charge the Northern States with a design to abolish slavery in the South. And I, who write history, not for applause, but for the sake of the instruction which it affords, gather up these dry details from the neglected documents in which they lie hidden, and bring them forth to the knowledge and consideration of all candid and impartial men, that they may see the just and fraternal spirit in which the free States then acted towards their brethren of the South. Nor can it fail to be observed, as a curious contrast, that, in the very moment that Mr. Calhoun was seeing cause for Southern alarm lest the North should abolish slavery in the South, the Northern senators were extending the area of slavery in Georgia by converting Indian soil into slave soil: and that against strenuous exertions made by himself.

CHAPTER CXXXVII.

EXTENSION OF THE MISSOURI BOUNDARY.

This was a measure of great moment to Missouri, and full of difficulties in itself, and requiring a double process to accomplish it—an act of Congress to extend the boundary, and an Indian treaty to remove the Indians to a new home. It was to extend the existing boundary of the State so as to include a triangle between the existing line and the Missouri River, large enough to form seven counties of the first class, and fertile enough to sustain the densest population. The difficulties were threefold: 1. To make still larger a State which was already one of the largest in the Union. 2. To remove Indians from a possession which had just been assigned to them in perpetuity. 3. To alter the Missouri compromise line in relation to slave territory, and thereby convert free soil into slave soil. The two first difficulties were serious — the third formidable: and in the then state of the public mind in relation to slave territory, this enlargement of a great slave State, and by converting free soil into slave, and impairing the compromise line, was an almost impossible undertaking, and in no way to be accomplished without a generous co-operation from the members of the free States. They were a majority in the House of Representatives, and no act of Congress could pass for altering the compromise line without their aid: they were equal in the Senate, where no treaty for the removal of the Indians could be ratified except by a concurrence of two thirds. And all these difficulties to be overcome at a time when Congress was inflamed with angry debates upon abolition petitions, transmission of incendiary publications, imputed designs to abolish slavery; and the appearance of the criminating article in South Carolina entitled the "Crises," announcing a Southern convention and a secession if certain Northern States did not suppress the abolition societies within their limits within a limited time.

In the face of all these discouraging obstacles the two Missouri senators, Messrs. Benton and Linn, commenced their operations. The first step was to procure a bill for the alteration of the compromise line and the extension of the

boundary: it was obtained from the Judiciary Committee, reported by Mr. John M. Clayton of Delaware: and passed the Senate without material opposition. It went to the House of Representatives; and found there no serious opposition to its passage. A treaty was negotiated with the Sac and Fox Indians to whom the country had been assigned, and was ratified by the requisite two thirds. And this, besides doing an act of generous justice to the State of Missouri, was the noble answer which Northern members gave to the imputed design of abolishing slavery in the States! actually extending it! and by an addition equal in extent to such States as Delaware and Rhode Island; and by its fertility equal to one of the third class of States. And this accomplished by the extraordinary process of altering a compromise line intended to be perpetual, and the reconversion of soil which had been slave, and made free, back again from free to slave. And all this when, had there been the least disposition to impede the proper extension of a slave State, there were plausible reasons enough to cover an opposition, in the serious objections to enlarging a State already the largest in the Union—to removing Indians again from a home to which they had just been removed under a national pledge of no more removals—and to disturbing the compromise line of 1820 on which the Missouri question had been settled; and the line between free and slave territory fixed for national reasons, to remain for ever. The author of this View was part and parcel of all that transaction—remembers well the anxiety of the State to obtain the extension—her joy at obtaining it—the gratitude which all felt to the Northern members without whose aid it could not have been done; and whose magnanimous assistance under such trying circumstances he now records as one of the proofs—(this work contains many others)—of the willingness of the non-slaveholding part of the Union to be just and generous to their slaveholding brethren, even in disregard of cherished prejudices and offensive criminations. It was the second great proof to this effect at this identical session, the ratification of the Georgia Cherokee treaty being the other

CHAPTER CXXXVIII.

ADMISSION OF THE STATES OF ARKANSAS AND MICHIGAN INTO THE UNION.

These two young States had applied to Congres for an act to enable them to hold a convention, and form State constitutions, preparatory to admission into the Union. Congress refused to pass the acts, and the people of the two territories held the convention by their own authority, formed their constitutions—sent copies to Congress, praying admission as States. They both applied at this session, and the proceedings on their respective applications were simultaneous in Congress, though in separate bills. That of Michigan was taken up first, and had been brought before each House in a message from the President in these words:

"By the act of the 11th of January, 1805, all that part of the Indian Territory lying north of a line drawn due 'east from the southerly bend or extreme of Lake Michigan until it shall intersect Lake Erie, and east of a line drawn from the said southerly bend, through the middle of said lake, to its northern extremity, and thence, due north, to the northern boundary of the United States,' was erected into a separate Territory, by the name of Michigan. The Territory comprised within these limits being part of the district of country described in the ordinance of the 13th of July, 1787, which provides that, whenever any of the States into which the same should be divided should have sixty thousand free inhabitants, such State should be admitted by its delegates 'into the Congress of the United States, on an equal footing with the original States in all respects whatever, and shall be at liberty to form a permanent constitution and State government, provided the constitution and government so to be formed shall be republican, and in conformity to the principles contained in these articles,' the inhabitants thereof have, during the present year, in pursuance of the right secured by the ordinance, formed a constitution and State government. That instrument, together with various other documents connected therewith, has been transmitted to me for the purpose of being laid before Congress, to whom the power and duty of admitting new States into the Union exclusively appertains; and the whole are herewith communicated for your early decision."

The application was referred to a select committee, Mr. Benton the chairman; and a memorial, entitled from the "Legislature of Michigan,"

was also referred to the same committee, though objected to by some senators as purporting to come from a State which, as yet, had no existence. But the objection was considered by others as being one of form—that it might be considered as coming from the people of Michigan—and was not even material in that point of view, as the question was already before the Senate on the President's Message. Some objection was also made to the boundaries, as being too large, and as trenching upon those of Indiana and Ohio. A bill was reported for the admission of the State, in support of which Mr. Benton said, the committee had included in the proposed limits a considerable portion of territory on the northwest, and had estimated the superficial contents of the State at 60,000 square miles. The territory attached contained but a very small portion of Indian population. It was necessary to make her large and strong, being a frontier State both to the Indians and to the British possessions. It should have a large front on Lake Superior. The principal points of objection, of a permanent character, were, that the proceedings of the people were revolutionary, in forming a constitution without a previous act of Congress; and her constitution inconsistent with that of the United States in admitting aliens to vote before naturalization. To the first it was answered that she had applied for an act of Congress two years ago, and was denied by the then dominant party, and that it was contradictory to object to her, for not having that which had been refused to be given; and on the second, that the same thing had been done for a quarter of a century. On the latter point Mr. Buchanan said:

"Michigan confined herself to such residents and inhabitants of her territory as were there at the signing of her constitution; and to those alone she extended the right of suffrage. Now, we had admitted Ohio and Illinois into this Union; two sister States, of whom we ought certainly to be very proud. He would refer senators to the provision in the constitution of Ohio on that subject. By it, all white male inhabitants, twenty-one years of age, or upwards, having resided one year in the State, are entitled to vote. Michigan had made the proper distinction; she had very properly confined the elective franchise to inhabitants within the State at the time of the adoption of her constitution; but Ohio had given the right of suffrage as to all future time to all her white inhabitants over the age of twenty-one years; a case embracing all time to come, and not limited as in the constitution of Michigan. He had understood that, since the adoption of her constitution, Ohio had repealed this provision by law. He did not know whether this was so or not; but here it was, as plain as the English language could make it, that all the white male inhabitants of Ohio, above the age of twenty-one years, were entitled to vote at her elections. Well, what had Illinois done in this matter? He would read an extract from her constitution, by which it would appear that only six months' previous residence was required to acquire the right of suffrage. The constitution of Illinois was therefore still broader and more liberal than that of Ohio. There, in all elections, all white male inhabitants above the age of twenty-one years, having resided in the State six months previous to the election, shall enjoy the rights of an elector. Now, sir, it had been made a matter of preference by settlers to go to Illinois, instead of the other new States, where they must become citizens before they could vote; and he appealed to the senators from Illinois whether this was not now the case, and whether any man could not now vote in that State after a six months' residence.

"[Mr. Robinson said that such was the fact.]

"Now, here were two constitutions of States, the senator from one of which was most strenuously opposed to the admission of Michigan, who had not extended the right of suffrage as far as was done by either of them. Did Michigan do right in thus fixing the elective franchise? He contended that she did act right; and if she had not acted so, she would not have acted in obedience to the spirit, if not the very letter, of the ordinance of 1787. Michigan took the right ground, while the States of Ohio and Illinois went back in making perpetual in their constitution what was contained in the ordinance. When Congress admitted them and Indiana on this principle, he thought it very ungracious in any of their senators or representatives to declare that Michigan should not be admitted, because she has extended the right of suffrage to the few persons within her limits at the adoption of her constitution. He felt inclined to go a good deal further into this subject; but as he was exceedingly anxious that the decision should be made soon, he would not extend his remarks any further. It appeared to him that an amendment might very well be made to this bill, requiring that the assent of the people of Michigan shall be given to the change of boundary. He did hope that by this bill all objections would be removed; and that this State, so ready to rush into our arms, would not be repulsed, because of the absence of some formalities, which, perhaps, were very proper, but certainly not indispensable.

On the other point, that of a revolutionary movement, Mr. Buchanan answered:

"I think their course is clearly justifiable; but if there is any thing wrong or unusual in it, it is to be attributed to the neglect of Congress. For three years, they have been rapping at your door, and asking for the consent of Congress to form a constitution, and for admission into the Union; but their petitions have not been heeded, and have been treated with neglect. Not being able to be admitted in the way they sought, they have been forced to take their own course, and stand upon their rights—rights secured to them by the constitution and a solemn irrepealable ordinance. They have taken the census of the territory; they have formed a constitution, elected their officers, and the whole machinery of a State government is ready to be put in operation: they are only awaiting your action. Having assumed this attitude, they now demand admission as a matter of right: they demand it as an act of justice at your hands. Are they now to be repelled, or to be told that they must retrace their steps, and come into the Union in the way they at first sought to do, but could not obtain the sanction of Congress? Sir, I fear the consequences of such a decision; I tremble at an act of such injustice."

The bill passed the Senate by rather a close vote—twenty-four to eighteen; the latter being all senators in the opposition. It then went to the House of Representatives for concurrence. From the time of the admission of new States, it had been the practice to admit a free and slave State together, or alternately, so as to keep up a numerical equilibrium between them—a practice resulting from some slight jealousy existing, from the beginning, between the two classes of States. In 1820, when the Missouri controversy inflamed that jealousy, the State of Massachusetts divided herself to furnish territory for the formation of a new free State (Maine) to balance Missouri; and the acts of Congress *for* the admission of both, were passed contemporaneously, March, 1820. Now, in 1836, when the slave question again was much inflamed, and a State of each kind to be admitted, the proceedings for that purpose were kept as nearly together as possible, not to include them in the same bill. The moment, then, that the Michigan bill had passed the Senate, that of Arkansas was taken up, under the lead of Mr. Buchanan, to whom the Arkansas application had been confided, as that of Michigan had been to Mr. Benton. This latter senator alluded to this circumstance to show that the people of these young States had no fear of trusting their rights and interests to the care of senators differing from themselves on the slavery question. He said:

"It was worthy of notice, that, on the presentation of these two great questions for the admission of two States, the people of those States were so slightly affected by the exertions that had been made to disturb and ulcerate the public mind on the subject of slavery, as to put them in the hands of senators who might be supposed to entertain opinions on that subject different from those held by the States whose interests they were charged with. Thus, the people of Arkansas had put their application into the hands of a gentleman representing a non-slaveholding State; and the people of Michigan had put their application into the hands of a senator (himself) coming from a State where the institutions of slavery existed; affording a most beautiful illustration of the total impotence of all attempts to agitate and ulcerate the public mind on the worn-out subject of slavery. He would further take occasion to say, that the abolition question seemed to have died out; there not having been a single presentation of a petition on that subject, since the general jail delivery ordered by the Senate."

Mr. Swift, of Vermont, could not vote for the admission of Arkansas, because the constitution of the State sanctioned perpetual slavery; and said:

"That, although he felt every disposition to vote for the admission of the new State into the Union, yet there were operative reasons under which he must vote against it. On looking at the constitution submitted by Arkansas, he found that they had made the institution of slavery perpetual; and to this he could never give his assent. He did not mean to oppose the passage of the bill, but had merely risen to explain the reasons why he could not vote for it."

Mr. Buchanan felt himself bound by the Missouri compromise to vote for the admission, and pointed out the ameliorating feature in the constitution which guaranteed the right of jury trials to slaves; and said:

"That, on the subject of slavery, this constitution was more liberal than the constitution of any of the slaveholding States that had been admitted into the Union. It preserved the very words of the other constitutions, in regard to slavery; but there were other provisions in it in favor of the slaves, and among them a provision which secured to them the right of trial by jury; thus putting them, in that particular, on an equal footing with the whites. He considered the compromise which had been made, when Missouri was admitted into the Union, as having settled the question as to slavery in the new South Western States; and the committee, therefore, did not deem it right to interfere with the question of slavery in Arkansas."

Mr. Prentiss, of Vermont, opposed the admission, on account of the "revolutionary" manner in which the State had held her convention, without the authorization of a previous act of Congress, and because her constitution had given perpetual sanction to slavery; and, referring to the reasons which induced him to vote against the admission of Michigan, said:

"That he must also vote against the admission of Arkansas. He viewed the movements of these two territories, with regard to their admission into the Union, as decidedly revolutionary, forming their constitution without the previous consent of Congress, and importunately knocking at its doors for admission. The objections he had to the admission of Arkansas, particularly, were, that she had formed her constitution without the previous assent of Congress, and in that constitution had made slavery perpetual, as noticed by his colleague. He regretted that he was compelled to vote against this bill; but he could not, in the discharge of his duty, do otherwise."

Mr. Morris, of Ohio, spoke more fully on the objectionable point than other senators, justifying the right of the people of a territory, when amounting to 60,000 to meet and form their own constitution—regretting the slavery clause in the constitution of Arkansas, but refusing to vote against her on that account, as she was not restrained by the ordinance of 1787, nor had entered into agreement against slavery. He said:

"Before I record my vote in favor of the passage of the bill under consideration, I must ask the indulgence of the Senate for a moment, while I offer a few of the reasons which govern me in the vote I shall give. Being one of the representatives of a free State, and believing slavery to be wrong in principle, and mischievous in practice, I wish to be clearly understood on the subject, both here and by those I have the honor to represent. I have objections to the constitution of Arkansas, on the ground that slavery is recognized in that constitution, and settled and established as a fundamental principle in her government. I object to the existence of this principle forming a part of the organic law in any State; and I would vote against the admission of Arkansas, as a member of this Union, if I believed I had the power to do so. The wrong, in a moral sense, with which I view slavery, would be sufficient for me to do this, did I not consider my political obligations, and the duty, as a member of this body, I owe to the constitution under which I now act, clearly require of me the vote I shall give. I hold that any portion of American citizens, who may reside on a portion of the territory of the United States, whenever their numbers shall amount to that which would entitle them to a representation in the House of Representatives in Congress, have the right to provide for themselves a constitution and State government, and to be admitted into the Union whenever they shall so apply; and they are not bound to wait the action of Congress in the first instance, except there is some compact or agreement requiring them to do so. I place this right upon the broad, and, I consider, indisputable ground, that all persons, living within the jurisdiction of the United States, are entitled to equal privileges; and it ought to be matter of high gratification to us here, that, in every portion, even the most remote, of our country, our people are anxious to obtain this high privilege at as early a day as possible. It furnishes clear proof that the Union is highly esteemed, and has its foundation deep in the hearts of our fellow-citizens.

"By the constitution of the United States, power is given to Congress to admit new States into the Union. It is in the character of a State that any portion of our citizens, inhabiting any part of the territory of the United States, must apply to be admitted into the Union; a State government and constitution must first be formed. It is not necessary for the power of Congress, and I doubt whether Congress has such power, to prescribe the mode by which the people shall form a State constitution; and, for this plain reason, that Congress would be entirely incompetent to the exercise of any coercive power to carry into effect the mode they might prescribe. I cannot, therefore, vote against the admission of Arkansas into the Union, on the ground that there was no previous act of Congress to authorize the holding of her convention. As a member of Congress, I will not look beyond the constitution that has been presented. I have no right to presume it was formed by incompetent persons, or that it does not fully express the opinions and wishes of the people of that country. It is true that the United States shall guarantee to every State in the Union a republican form of government: meaning, in my judgment, that Congress shall not permit any power to establish, in any State, a government without the assent of the people of such State; and it will not be amiss that we remember here, also, that that guaranty is to the State, and not as to the formation of the government by the people of the State; but should it be admitted that Congress can look into the constitution of a State, in order to ascertain its character, before such State is admitted into the Union, yet I contend that Congress cannot object to it for the want of a republican form, if it contains the great principle that all power is inherent in the people, and that the government drew all its just powers from the governed.

"The people of the territory of Arkansas, having formed for themselves a State government, having presented their constitution for admission into the Union, and that constitution

being republican in its form, and believing that the people who prepared and sent this constitution here are sufficiently numerous to entitle them to a representative in Congress, and believing, also, that Congress has no right or power to regulate the system of police these people have established for themselves, and the ordinance of 1787 not operating on them, nor have they entered into any agreement with the United States that slavery should not be admitted in their State, have the right to choose this lot for themselves, though I regret that they made this choice. Yet, believing that this government has no right to interfere with the question of slavery in any of the States, or prescribe what shall or shall not be considered property in the different States, or by what tenure property of any kind shall be holden, but that all these are exclusively questions of State policy, I cannot, as a member of this body, refuse my vote to admit this State into the Union, because her constitution recognizes the right and existence of slavery."

Mr. Alexander Porter, of Louisiana, would vote against the admission, on account of the "revolutionary" proceedings of the people in the formation of their constitution, without a previous act of Congress. It is believed that Mr. Clay voted upon the same ground. There were but six votes against the admission; namely: Mr. Clay, Mr. Knight of Rhode Island, Mr. Porter, Mr. Prentiss, Mr. Robbins of Rhode Island, and Mr. Swift. It is believed that Mr. Robbins and Mr. Knight voted on the same ground with Mr. Clay and Mr. Porter. So, the bill was easily passed, and the two bills went together to the House of Representatives, where they gave rise to proceedings, the interest of which still survives, and a knowledge of which, therefore, becomes necessary. The two bills were made the special order for the same day, Wednesday, the 8th of June, Congress being to adjourn on the 4th of July; and the Michigan bill having priority on the calendar, as it had first passed the Senate. Mr. Wise, of Virginia, on the announcement of the Michigan bill, from the chair, as the business before the House, moved to postpone its consideration until the ensuing Monday, in order to proceed with the Arkansas bill. Mr. Thomas, of Maryland, objected to the motion, and said:

"He would call the attention of the House to the position of the two bills on the Speaker's table, and endeavor to show that this postponement is entirely unnecessary. These bills are from the Senate. By the rules of this House, two, I may say three, questions will arise, to be decided before they can become a law, so far as this House is concerned. We must first order each of these bills to be read a third time; the next question then will be, when shall the bill be read a third time? And the last question to be decided will be, shall the bill pass? Why, then, should Southern men now make an effort to give precedence to the bill for the admission of Arkansas into the Union? If they manifest distrust, must we not expect that fears will be entertained by Northern members, that unreasonable opposition will be made to the admission of Michigan? Let us proceed harmoniously, until we find that our harmony must be interrupted. We shall lose nothing by so doing. If a majority of the House be in favor of reading a third time the Michigan bill, they will order it to be done. After that vote has been taken, we can refuse to read the bill a third time, go into Committee of the Whole on the state of the Union, then consider the Arkansas bill, report it to the House, order it to be read a third time, and in this order proceed to read them each a third time, if a majority of the House be in favor of that proceeding. Let it not be said that Southern men may be taken by surprise, if the proceeding here respectfully recommended be adopted. If the friends of Arkansas are sufficiently numerous to carry now the motion to postpone, they can arrest at any time the action of the House on the Michigan bill, until clear undubitable indications have been given that the Missouri compromise is not to be disregarded."

These latter words of Mr. Thomas revealed the point of jealousy between some Southern and Northern members, and brought the observance of the Missouri compromise fully into view, as a question to be tried. Mr. Wise, after some remarks, modified his motion by moving to refer both bills to the Committee of the Whole on the state of the Union, with instructions to incorporate the two bills into one bill. Mr. Patton, of Virginia, opposed the latter motion, and gave his reasons at length against it. If his colleague would so modify his motion as to move to refer both bills to the Committee of the Whole House, without the instructions, he would vote for it. Mr. Bouldin, of Virginia, successor to Mr. Randolph, said:

"He agreed with his colleague [Mr. Patton] in a fact too plain for any to overlook, that both bills must be acted on separately, and that one must have the preference in point of time. Michigan had it at that time—he was willing it should hold it. His colleague [Mr. Patton] seemed to think that in the incipient steps in relation to this bill, it would be well enough to suffer Michigan to hold her present position;

but that, before the final passage of the bill, it would be well to require of the House (or rather of the non-slaveholding portion of the Union) to give some unequivocal guaranty to the South that no difficulty would be raised as to the reception of Arkansas in regard to negro slavery. Mr. B. was willing to go on with the bill for the admission of Michigan. He had the most implicit confidence in the House, particularly alluding to the non-slaveholding part of the Union, that no serious difficulty would be made as to the admission of Arkansas in regard to negro slavery. If there were any serious difficulties to be raised in the House to the admission of Arkansas, upon the ground of negro slavery, he wished immediate notice of it. If his confidence was misplaced, he wished to be corrected as soon and as certainly as possible. If there really was any intention in the House of putting the South under any difficulty, restraint, limit, any shackle or embarrassment on the South on account of negro slavery (some gentlemen said slavery, but he said *negro* slavery), he wished to know it. If there were any individuals having such feeling, he wished to know them; he wished to hear their names upon yeas and nays. If there were a majority, he should act promptly, decisively, immediately upon it, and had no doubt all the South would do the same. There might be some question as to the claim of non-slaveholding States to stop the progress of Southern habits and Southern influence Northward. As to Arkansas, there could be no question; and if seriously pressed, such claims could leave no doubt on the minds of the South as to the object of those who pressed them, or the course to be pursued by them. Such a stand being taken by the non-slaveholding States, it would make little difference whether Michigan was in or out of this Union. He said he would sit down, again assuring the House, and the gentlemen particularly from the non-slaveholding States, of his entire confidence that no such thing would be seriously attempted by any considerable numbers of this House."

Mr. Lewis, of North Carolina, took decided ground in favor of giving the Arkansas bill the priority of decision; and expressed himself thus:

"He should vote for the proposition of the gentleman from Virginia [Mr. Wise] to lay the bill for the admission of Michigan into the Union on the table, until the bill for the admission of Arkansas should be first passed. He should do this, for the obvious reason that there were dangers, he would not say how great, which beset Arkansas, and which did not beset Michigan. The question of slavery could be moved as a condition for the admission of Arkansas, and it could not as a condition to the admission of Michigan. I look upon the Arkansas question as therefore the weaker of the two, and for that reason I would give it precedence. Besides, upon the delicate question which may be involved in the admission of Arkansas, we may be the weaker party in this House. For that reason, if gentlemen mean to offer no obstructions to the admission of Arkansas, let them give the assurance by helping the weaker party through with the weaker question. We of the South cannot, and will not, as I pledge myself, offer any objections to the domestic institutions of Michigan with regard to slavery. Can any gentleman make the same pledge that no such proposition shall come from the North? Besides, the two bills are not now on an equal footing. The bill for the admission of Arkansas must be sent to a Committee of the Whole on the state of the Union. The bill for the admission of Michigan need not necessarily go to that committee. It will therefore pass in perfect safety, while we shall be left to get Arkansas along, through the tedious stages of commitment, as well as we can. The gentleman from Pennsylvania [Mr. Sutherland] says that these two bills will be hostages for the safety of each other. Not, sir, if you pass the stronger bill in advance of the weaker. Besides, the North want no hostages on this subject. Their institutions cannot be attacked. We of the South want a hostage, to protect us on a delicate question; and the effect of giving precedence to the Michigan bill is to deprive us of that hostage."

Mr. Cushing, of Massachusetts, addressed the committee at length on the subject, of which only the leading passages can be given. He said:

"The House has now continued in session for the space of eighteen or nineteen hours, without any interval of refreshment or rest. It is impossible to mistake the intentions of the ruling majority. I see clearly that the committee is resolved to sit out the debate on these important bills for the admission of Michigan and Arkansas into the Union. This, it is apparent, the majority have the power as well as the right to do. Whether it be just and reasonable, is another question. I shall not quarrel, however, with the avowed will of the House. It has done me the favor to hear me with patience on other occasions; and I cannot render it the unfit return of trespassing on its indulgence at this unseasonable hour, nor seek to defeat its purposes by speaking against time. But having been charged with sundry memorials from citizens of Massachusetts and New Hampshire, remonstrating against that clause in the constitution of Arkansas which relates to the subject of slavery, I should be recreant to the trust they have reposed in me, if I suffered the bill for the admission of Arkansas to pass without a word of protestation. The extraordinary circumstances under which I rise to address the committee impel me to brevity and succinctness; but they would afford me no justification for a passive acquiescence in the admission of Arkansas into the Union, with all the sins of its constitution upon its head.

"The constitution of Arkansas, as communicated to Congress in the memorial of the people of that Territory, praying to be admitted into the Union, contains the following clause: 'The General Assembly shall have no power to pass laws for the emancipation of slaves without the consent of the owners. They shall have no power to prevent emigrants to this State from bringing with them such persons as are deemed slaves by the laws of any one of the United States.' This provision of the constitution of Arkansas is condemned by those whom I represent on this occasion as anti-republican, as wrong on general principles of civil polity, and as unjust to the inhabitants of the non-slaveholding States. They object to it as being, in effect, a provision to render slavery perpetual in the new State of Arkansas. I concur in reprobating such a clause. The legislature of Arkansas is forbidden to emancipate the slaves within its jurisdiction, even though it should be ready to indemnify fully their owners. It is forbidden to exclude slaves from being imported into the State. I cannot, by any vote of mine, ratify or sanction a constitution of government which undertakes in this way to foreclose in advance the progress of civilization and of liberty for ever. In order to do justice to the unchangeable opinions of the North, without, in any respect, invading the rights, real or supposed, of the South, my colleague [Mr. Adams], the vigilant eye of whose unsleeping mind there is nothing which escapes, has moved an amendment of the bill for the admission of Arkansas into the Union, so that, if the amendment be adopted, the bill would read as follows: 'The State of Arkansas is admitted into the Union upon the express condition that the people of the said State shall never interfere with the primary disposal of the public lands within the said State, nor shall they levy a tax on any of the lands of the United States within the said State; and nothing in this act shall be construed as an assent by Congress [to the article in the constitution of the said State relating to slavery and to the emancipation of the slaves, or] to all or to any of the propositions contained in the ordinance of the said convention of the people of Arkansas, nor to deprive the said State of Arkansas of the same grants, subject to the same restrictions, which were made to the State of Missouri.' This amendment is, according to my judgment, reasonable and proper in itself, and the very least that any member from the North can propose in vindication of the opinions and principles of himself and his constituents.

"It is opposed, however, by the gentleman from Virginia [Mr. Wise], with his accustomed vigor and ability. He alleges considerations adverse to the motion. He interrogates the friends of the proposed amendment in regard to its force, effect, and purposes, in terms which seem to challenge response; or which, at any rate, if not distinctly and promptly met, would leave the objections which those interrogatories impliedly convey, to be taken as confessed and admitted by our significant silence. What may be the opinions of Martin Van Buren as to this particular bill, what his conduct formerly in reference to a similar case, is a point concerning which I can have no controversy with the gentleman from Virginia. I look only to the merits of the qusetion before the committee. There is involved in it a principle which I regard as immeasurably more important than the opinion of any individual in this nation, however high his present situation or his possible destiny—the great principle of constitutional freedom. The gentleman from Virginia, who, I cheerfully admit, is always frank and honorable in his course upon this floor, has just declared that, as a Southern man, he had felt it to be his duty to come forward and take a stand in behalf of an institution of the South. That institution is slavery. In like manner, I feel it to be my duty, as a Northern man, to take a counter stand in conservation of one among the dearest of the institutions of the North. This institution is liberty. It is not to assail slavery, but to defend liberty, that I speak. It is demanded of us, Do you seek to impose restrictions on Arkansas, in violation of the compromise under which Missouri entered the Union? I might content myself with replying that the State of Massachusetts was not a party to that compromise. She never directly or indirectly assented to it. Most of her Representatives in Congress voted against it. Those of her Representatives who, regarding that compromise in the light of an act of conciliation important to the general interests of the Union, voted for it, were disavowed and denounced at home, and were stigmatized even here, by a Southern member, as over-compliant towards the exactingness of the South. On the first introduction of this subject to the notice of the House, the gentleman from Virginia made a declaration, which I particularly noticed at the time, for the purpose of having the tenor of the declaration distinctly understood by the House and by the country. The gentleman gave it to be known that, if members from the North held themselves not engaged by the terms of the compromise under which Missouri entered into the Union, neither would members from the South hold themselves engaged thereby; and that, if we sought to impose restrictions affecting slave property on the one hand, they might be impelled, on the other hand, to introduce slavery into the heart of the North. I heard the suggestion with the feelings natural to one born and bred in a land of equality and freedom. I took occasion to protest, in the surprised impulse of the moment, against the idea of putting restrictions on liberty in one quarter of the Union, in retaliation of the attempt to limit the spread of slavery in another quarter. I held up to view the inconsistency and inconsequence of uttering the warmest eulogiums on freedom one day, of pouring out aspirations that the spirit of liberty might pervade the universe, and at another

time threatening the North with the establishment of Slavery within its borders, if a Northern member should deprecate the legal perpetuation of slavery in a proposed new State of the West. It did not fall within the rules of pertinent debate to pursue the subject at that time; and I have but a single idea to present now, in addition to what I then observed. It is not possible for me to judge whether the gentleman from Virginia, and any of his friends or fellow-citizens at the South, deliberately and soberly cherish the extraordinary purpose which his language implied. I trust it was but a hasty thought, struck out in the ardor of debate. To introduce slavery into the heart of the North? Vain idea! Invasion, pestilence, civil war, may conspire to exterminate the eight millions of free spirits who now dwell there. This, in the long lapse of ages incalculable, is possible to happen. You may raze to the earth the thronged cities, the industrious villages, the peaceful hamlets of the North. You may lay waste its fertile valleys and verdant hill-sides. You may plant its very soil with salt, and consign it to everlasting desolation. You may transform its beautiful fields into a desert as bare as the blank face of the sands of Sahara. You may reach the realization of the infernal boast with which Attila the Hun marched his barbaric hosts into Italy, demolishing whatever there is of civilization or prosperity in the happy dwellings of the North, and reducing their very substance to powder, so that a squadron of cavalry shall gallop over the site of populous cities, unimpeded as the wild steeds on the savannas of the West. All this you may do: it is within the bounds of physical possibility. But I solemnly assure every gentleman within the sound of my voice, I proclaim to the country and to the world, that, until all this be fully accomplished to the uttermost extremity of the letter, you cannot, you shall not, introduce slavery into the heart of the North."

A point of order being raised whether the two bills were not required by a rule of the House to go before the Committee of the Whole, the Speaker, Mr. Polk, decided in the affirmative—the Arkansas bill, upon the ground of containing an appropriation for the salary of judges; and that of Michigan because it provided for judges, which involved a necessity for an appropriation. The two bills then went into Committee of the Whole, Mr. Speight, of North Carolina, in the chair. Many members spoke, and much of the speaking related to the boundaries of Michigan, and especially the line between herself and the State of Ohio—to which no surviving interest attaches. The debate, therefore, will only be pursued as it presents points of present and future interest. These may be assumed under three heads: 1. The formation of constitutions without the previous assent of Congress: and this was applicable to both States. 2. The right of aliens to vote before naturalization. 3. The right of Arkansas to be admitted with slavery by virtue of the rights of a State,—by virtue of the third article of the treaty which ceded Louisiana to the United States—and by virtue of the Missouri compromise. On these points, Mr. Hamer, of Ohio, spoke thus:

"One of the principal objections urged against their admission at this time is, that their proceedings have been lawless and revolutionary; and that, for the example's sake, if for no other reason, we should reject their application, and force them to go back and do all their work over again. I cannot assent to this proposition. Two ways are open to every territory that desires to emerge from its dependent condition and become a State. It may either petition Congress for leave to form a State constitution, and, when that permission is given, proceed to form it, and present the new State constitution for our approbation; or they may meet, in the first instance, form the constitution, and offer it for our approval. There is no impropriety in either mode. It is optional with Congress, at last, to admit the State or not, as may be thought expedient. If they wish to admit her, they can do it by two acts of Congress; one to authorize the formation of a constitution, and the other to approve of it when made; or by one act, allowing the prayer of the petitioners to become a State, and approving of their constitution at the same time. This latter course is the one adopted in the present case. There is nothing disrespectful in it. Indeed, there is much to justify the Territory in its proceeding. Year after year they petitioned for leave to form a constitution, and it was refused, or their application was treated with neglect. Wearied with repeated instances of this treatment, they have formed a constitution, brought it to us, and asked us to sanction it, and admit them into the Union. We have the authority to do this; and if their constitution is republican, we ought to do it. There is no weight in this objection, and I will dismiss it without further remark. Another objection is, that aliens have aided in making this constitution, and are allowed the right of suffrage in all elections by the provisions it contains. As to the first point, it is sufficient to say that all the new States northwest of the Ohio formed their constitutions precisely in the same way. The ordinance of 1787 does not require sixty thousand citizens of the United States to be resident within the limits of a new State, in order to authorize a constitution and admission into the Union. It requires that number of 'free inhabitants;' and the alien who resides there, if he be a 'free inhabitant,'

is entitled to vote in the election of delegates to the convention; and afterwards in deciding whether the people will accept the constitution formed by their convention. Such has been the construction and practice in all the country north of the Ohio; and as the last census shows that there are but a few hundreds of aliens in Michigan, it would be hard to set aside their constitution, because some of these may have participated in its formation. It would be unjust to do so, if we had the power; but we have no authority to do it; for if we regard the ordinance as of any validity, it allows all 'free inhabitants' to vote in framing the State governments which are to be created within the sphere of its influence. We will now turn to the remaining point in this objection, and we shall see that it has no more force in it than the other.

"The constitution allows all white male citizens over twenty-one years of age, having resided six months in Michigan, to vote at all elections; and every white male inhabitant residing in the State at the time of signing the constitution is allowed the same privilege. These provisions undoubtedly confer on aliens the right of suffrage; and it is contended that they are in violation of the constitution of the United States. That instrument declares that 'new States may be admitted by the Congress into this Union;' that 'the United States shall guarantee to every State in this Union a republican form of government;' and that 'the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.' The ordinance of 1787 provides that the constitution to be formed northwest of the Ohio 'shall be republican.'

"It is an error not very uncommon to suppose that the right of suffrage is inseparably connected with the privilege of citizenship. A slight investigation of the subject will prove that this is not so. The privileges are totally distinct. A State cannot make an American citizen who, under the constitution of the United States shall be entitled to the rights of citizenship throughout the Union. The power belongs to the federal government. We pass all the naturalization laws, by which aliens are transformed into citizens. We do so under the constitution of the United States, conceding to us this authority. But, on the other hand, we have no control over the right of suffrage in the different States. That belongs exclusively to State legislation and State authority. It varies in almost all the States; and yet who ever supposed that Congress could interfere to change the rules adopted by the people in regard to it? No one, I presume. Why then attempt to control it here? Other States have adopted the same provisions. Look at the constitutions of Ohio and other new States, and you will find that they require residence only, and not citizenship, to enable a man to vote. Each State can confer this right upon all persons within her limits. It gives them no rights beyond the limits of the State. It cannot make them citizens, for that would violate the naturalization laws; or, rather, it would render them nugatory It cannot give them a right to vote in any other State, for that would infringe upon the authority of such State to regulate its own affairs. It simply confers the right of aiding in the choice of public officers whilst the alien remains in the State; it does not make him a citizen; nor is it of the slightest advantage to him beyond the boundaries of Michigan."

Mr. Hamer concluded his remarks with a feeling allusion to the distractions which had prevailed during the Missouri controversy, a congratulation upon their disappearance under the Missouri compromise, and an earnest exhortation to harmony and the preservation of good feeling in the speedy admission of the two States; and said:

"We can put an end to a most distracting contest, that has agitated our country from Maine to Georgia, and from the Atlantic to the most remote settlement upon the frontier. There was a time when the most painful anxiety pervaded the whole nation; and whilst each one waited with feverish impatience for further intelligence from the disputed territory, he trembled lest the ensuing mail should bear the disastrous tidings of a civil strife in which brother had fallen by the hand of brother, and the soil of freedom had been stained by the blood of her own sons. But the storm has passed. The usual good fortune of the American people has prevailed. The land heaves in view, and a haven, with its wide-spread arms, invites us to enter. After so long an exposure to the fury of a tempest that was apparently gathering in our political horizon, let us seize the first opportunity to steer the ship into a safe harbor, far beyond the reach of that elemental war that threatened her security in the open sea. Let us pass this bill. It does justice to all. It conciliates all. Its provisions will carry peace and harmony to those who are now agitated by strife, and disquieted by tumults and disorders. By this just, humane, and beneficent policy, we shall consolidate our liberties, and make this government what Mr. Jefferson, more than thirty years ago, declared it to be, 'the strongest government on earth; the only one where every man, at the call of the law, will fly to the standard of the law, and meet invasions of the public order as his own personal concern.' With this policy on the part of the government, and the spirit of patriotism that now animates our citizens in full vigor, united America may bid defiance to a world in arms; and should Providence continue to smile upon our country, we may confidently anticipate that the freedom, the happiness, and the prosperity, which we now enjoy, will be as perpetual as the lofty mountains that crown our continent, or the noble rivers that fertilize our plains."

Mr. Adams commenced a speech in Committee of the Whole, which was finished in the House, and being prepared for publication by himself, and therefore free from error, is here given—all the main parts of it—to show his real position on the slavery question, so much misunderstood at the time on account of his tenacious adherence to the right of petition. He said:

"I cannot, consistently with my sense of my obligations as a citizen of the United States, and bound by oath to support their constitution, I cannot object to the admission of Arkansas into the Union as a slave State; I cannot propose or agree to make it a condition of her admission, that a convention of her people shall expunge this article from her constitution. She is entitled to admission as a slave State, as Louisiana and Mississippi, and Alabama, and Missouri, have been admitted, by virtue of that article in the treaty for the acquisition of Louisiana, which secures to the inhabitants of the ceded territories all the rights, privileges, and immunities, of the original citizens of the United States; and stipulates for their admission, conformably to that principle, into the Union. Louisiana was purchased as a country wherein slavery was the established law of the land. As Congress have not power in time of peace to abolish slavery in the original States of the Union, they are equally destitute of the power in those parts of the territory ceded by France to the United States by the name of Louisiana, where slavery existed at the time of the acquisition. Slavery is in this Union the subject of internal legislation in the States, and in peace is cognizable by Congress only, as it is tacitly tolerated and protected where it exists by the constitution of the United States, and as it mingles in their intercourse with other nations. Arkansas, therefore, comes, and has the right to come into the Union with her slaves and her slave laws. It is written in the bond, and, however I may lament that it ever was so written, I must faithfully perform its obligations. I am content to receive her as one of the slaveholding States of this Union; but I am unwilling that Congress, in accepting her constitution, should even lie under the imputation of assenting to an article in the constitution of a State which withholds from its legislature the power of giving freedom to the slave. Upon this topic I will not enlarge. Were I disposed so to do, twenty hours of continuous session have too much exhausted my own physical strength, and the faculties as well as the indulgence of those who might incline to hear me, for me to trespass longer upon their patience. When the bill shall be reported to the House, I may, perhaps, again ask to be heard, upon renewing there, as I intend, the motion for this amendment.'

After a session of twenty-five hours, including the whole night, the committee rose and reported the two bills to the House. Of the arduousness of this session, which began at ten in the morning of Thursday, and was continued until eleven o'clock the next morning, Mr. Adams, who remained at his post the whole time, gave this account in a subsequent notice of the sitting:

"On Thursday, the 9th of June, the House went into Committee of the Whole on the state of the Union upon two bills; one to fix the Northern boundary of the State of Ohio, and for the conditional admission of the State of Michigan into the Union; and the other for the admission of the State of Arkansas into the Union. The bill for fixing the Northern boundary of the State of Ohio, and the conditional admission of Michigan into the Union, was first taken up for consideration, and gave rise to debates which continued till near one o'clock of the morning of Friday, the 10th of June: repeated motions to adjourn had been made and rejected. The committee had twice found itself without a quorum, and had been thereby compelled to rise, and report the fact to the House. In the first instance there had been found within private calling distance a sufficient number of members, who, though absent from their duty of attendance upon the House, were upon the alert to appear and answer to their names to make a quorum to vote against adjourning, and then to retire again to their amusement or repose. Upon the first restoration of the quorum by this operation, the delegate from Arkansas said that if the committee would only take up and read the bill, he would not urge any discussion upon it then, and would consent to the committee's rising, and resuming the subject at the next sitting of the House. The bill was accordingly read; a motion was then made for the committee to rise, and rejected; an amendment to the bill was moved, on taking the question upon which there was no quorum. The usual expedient of private call to straggling members was found ineffectual. A call of the House was ordered, at one o'clock in the morning. This operation, to be carried through all its stages, must necessarily consume about three hours of time, during which the House can do no other business. Upon this call, after the names of all the members had been twice called over, and all the absentees for whom any valid or plausible excuse was offered had been excused, there remained eighty-one names of members, who, by the rules of the House, were to be taken into custody as they should appear, or were to be sent for, and taken into custody wherever they might be found, by special messengers appointed for that purpose. At this hour of the night the city of Washington was ransacked by these special messengers, and the members of the House were summoned from their beds to be brought in custody of these special messengers, before the House, to answer for their absence

After hearing the excuses of two of these members, and the acknowledged no good reason of a third, they were all excused in a mass, without payment of fees; which fees, to the amount of two or three hundred dollars, have of course become a charge upon the people, and to be paid with their money. By this operation, between four and five o'clock of the morning, a small quorum of the House was obtained, and, without any vote of the House, the speaker left the chair, which was resumed by the chairman of the Committee of the Whole."

Mr. Adams resumed his seat, and Mr. Wise addressed the committee, particularly in reply to Mr. Cushing. Confusion, noise and disorder became great in the Hall. Several members spoke; and cries of "order," and "question" were frequent. Personal reflections passed, and an affair of honor followed between two Southern members, happily adjusted without bloodshed. The chairman, Mr. Speight, by great exertions, had procured attention to Mr. Hoar, of Massachusetts. Afterwards Mr. Adams again addressed the committee. Mr. Wise inquired of him whether in his own opinion, if his amendment should be adopted, the State of Arkansas would, by this bill, be admitted? Mr. Adams answered—"Certainly, sir. There is not in my amendment the shadow of a restriction proposed upon the State. It leaves the State, like all the rest, to regulate the subject of slavery within herself by her own laws." The motion of Mr. Adams was rejected, only thirty-two members voting for it; being not one third of the members from the non-slaveholding States.

The vote was taken on the Michigan bill first, and was ordered to a third reading by a vote of 153 to 45. The nays were:

"Messrs. John Quincy Adams, Heman Allen, Jeremiah Bailey, John Bell, George N. Briggs, William B. Calhoun, George Chambers, John Chambers, Timothy Childs, William Clark, Horace Everett, William J. Graves, George Grennell, jr., John K. Griffin, Hiland Hall, Gideon Hard, Benjamin Hardin, James Harper, Abner Hazeltine, Samuel Hoar, Joseph R. Ingersoll, Daniel Jenifer, Abbott Lawrence, Levi Lincoln, Thomas C. Love, Samson Mason, Jonathan McCarty, Thomas M. T. McKennan, Charles F. Mercer, John J. Milligan, Mathias Morris, James Parker, James A. Pearce, Stephen C. Phillips, David Potts, jr., John Reed, John Robertson, David Russell, William Slade, John N. Steele, John Taliaferro, Joseph R. Underwood, Lewis Williams, Sherrod Williams, Henry A. Wise.

It is remarkable that this list of nays begins with Mr. Adams, and ends with Mr. Wise—a proof that all the negative votes, were not given upon the same reasons.

The vote was immediately after taken on ordering to a third reading the bill for the admission of the State of Arkansas; which was so ordered by a vote of 143 to 50. The nays were:

"Messrs. John Quincy Adams, Heman Allen, Joseph B. Anthony, Jeremiah Bailey, William K. Bond, Nathaniel B. Borden, George N. Briggs, William B. Calhoun, Timothy Childs, William Clark, Joseph H. Crane, Caleb Cushing, Edward Darlington, Harmer Denny, George Evans, Horace Everett, Philo C. Fuller, George Grennell, jr., Hiland Hall, Gideon Hard, James Harper, Abner Hazeltine, Joseph Henderson, William Hiester, Samuel Hoar, William Jackson, Henry F. Janes, Benjamin Jones, John Laporte, Abbott Lawrence, George W. Lay, Levi Lincoln, Thomas C. Love, Samson Mason, Jonathan McCarthy, Thomas M. T. McKennan, Mathias Morris, James Parker, Dutee J. Pearce, Stephen C. Phillips, David Potts, jr., John Reed, David Russell, William N. Shinn, William Slade, John Thomson, Joseph R. Underwood, Samuel F. Vinton, Elisha Whittlesey, Lewis Williams."

Here again the beginning and the ending of the list of voters is remarkable, beginning again with Mr. Adams, and terminating with Mr. Lewis Williams, of North Carolina—two gentlemen wide apart in their political courses, and certainly voting on this occasion on different principles.

From the meagreness of these negative votes, it is evident that the struggle was, not to pass the two bills, but to bring them to a vote. This was the secret of the arduous session of twenty-five hours in the House. Besides the public objections which clogged their admission—boundaries in one, slavery in the other, alien voting, and (what was deemed by some), revolutionary conduct in both in holding conventions without authority of Congress; besides these public reasons, there was another cause operating silently, and which went more to the postponement than to the rejection of the States. This cause was political and partisan, and grew out of the impending presidential election, to be held before Congress should meet again. Mr. Van Buren was the democratic candidate; General William Henry Harrison was the candidate of the opposition; and Mr. Hugh L. White, of Tennessee, was brought forward by a fraction which divided from the democratic party. The new States, it was known, would vote, if now

admitted, for Mr. Van Buren; and this furnished a reason to the friends of the other candidates (even those friendly to eventual admission, and on which some of them were believed to act), to wish to stave off the admission to the ensuing session.—The actual negative vote to the admission of each State, was not only small, but nearly the same in number, and mixed both as to political parties and sectional localities; so as to exclude the idea of any regular or considerable opposition to Arkansas as a slave State. The vote which would come nearest to referring itself to that cause was the one on Mr. Adams' proposed amendment to the State constitution; and there the whole vote amounted only to 32; and of the sentiments of the greater part of these, including Mr. Adams himself, the speech of that gentleman must be considered the authentic exponent; and will refer their opposition, not to any objection to the admission of the State as slave-holding, but to an unwillingness to appear upon the record as assenting to a constitution which forbid emancipation, and made slavery perpetual. The number actually voting to reject the State, and keep her out of the Union, because she admitted slavery, must have been quite small—not more in proportion, probably, than what it was in the Senate.

CHAPTER CXXXIX.

ATTEMPTED INQUIRY INTO THE MILITARY ACADEMY.

This institution, soon after its organization under the act of 1812, began to attract public attention, as an establishment unfriendly to the rights of the people, of questionable constitutionality, as being for the benefit of the rich and influential; and as costing an enormous sum for each officer obtained from it for actual service. Movements against it were soon commenced in Congress, and for some years perseveringly continued, principally under the lead of Mr. Newton Cannon, and Mr. John Cooke, representatives from the State of Tennessee. Their speeches and statements made considerable impression upon the public mind, but very little upon Congress, where no amelioration of any kind could be obtained, either in the organization of the institution, or in the practical administration which had grown up under it. In the session of 1834—'35 these efforts were renewed, chiefly induced by Mr. Albert Gallatin Hawes, representative from Kentucky, who moved for, and attained the appointment of a committee of twenty-four, one from each State; which made a report, for which no consideration could be procured—not even the printing of the report. Baffled in their attempts to get at their object in the usual forms of legislation, the members opposed to the institution resorted to the extraordinary mode of attacking its existence in an appropriation bill: that is to say, resisting appropriations for its support—a mode of proceeding entirely hopeless of success, but justifiable, as they believed, under the circumstances; and at all events as giving them an opportunity to get their objections before the public.

It was at the session of 1835–'36, that this form of opposition took its most determined course; and some brief notices of what was said then may still be of service in awakening a spirit of inquiry in the country, and promoting investigations which have so long been requested and denied. But it was not until after another attempt had failed to do any thing through a committee at this session also, that the ultimate resource of an attack upon the appropriation for the support of the institution was resorted to. Early in the session Mr. Hawes offered this resolution: "That a select committee of nine be appointed to inquire into what amendments, if any, are expedient to be made to the laws relating to the military Academy at West Point, in the State of New-York; and also into the expediency of modifying the organization of said institution; and also whether it would not comport with the public interest to abolish the same: with power in the committee to report by bill or otherwise." Mr. Hawes, in support of his motion reminded the House of the appointment of the committee of the last session, of its report, and his inability to obtain action upon it, or to procure an order for its printing. The resolution which he now submitted varied but in one particular from that which he had offered the year before, and that was in the reduced number of the committee asked for Twenty-four was a larger number than could be induced to enter into any extended or patient investigation; and he now proposed a commit-

tee of nine only. His resolution was only one of inquiry, to obtain a report for the information of the people, and the action of the House—a species of resolution usually granted as a matter of course; and he hoped there would be no objection to his motion. Mr. Wardwell, of New-York, objected to the appointment of select committee, and thought the inquiry ought to go to the standing committee on military affairs. Mr. F. O. J. Smith, of Maine, wished to hear some reason assigned for this motion. It seemed to him that a special committee ought to be raised; but if the friends of the institution were fearful of a select committee, and would assign that fear as a motive for preferring the standing committee, he would withdraw his objection. Mr. Briggs, of Massachusetts, believed the subject was already referred to the military committee in the general reference to that committee of all that related in the President's message to this Academy; and so believing, he made it a point of order for the Speaker to decide, whether the motion of Mr. Hawes could be entertained. The Speaker, Mr. Polk, said that the motion was one of inquiry; and he considered the reference of the President's message as not applying to the case. Mr. Briggs adhered to his belief that the subject ought to go to a standing committee. The committee had made an elaborate report at the last session, which was now on the files of the House; and if gentlemen wished information from it, they could order it to be printed. Mr. John Reynolds, of Illinois, said it was astonishing that members of this House, friends of this institution, were so strenuous in their opposition to investigation. If it was an institution founded on a proper basis, and conducted on proper and republican principles, they had nothing to fear from investigation; if otherwise the people had: and the great dread of investigation portended something wrong. His constituents were dissatisfied with this Academy, and expected him to represent them fairly in doing his part to reform, or to abolish it; and he should not disappoint them. The member from Massachusetts, Mr. Briggs, he said, had endeavored to stifle this inquiry, by making it a point of order to be decided by the Speaker; which augured badly for the integrity of the institution. Failing in that attempt to stifle inquiry, he had joined the member from New-York, Mr. Wardwell, in the attempt to send it to a committee where no inquiry would be made, and in violation of parliamentary practice. He, Mr. Reynolds, had great respect for the members of the military committee; but some of them, and perhaps all, had expressed an opinion in favor of the institution. Neither the chairman, nor any member of the committee had asked for this inquiry; it was the law of parliament, and also of reason and common sense, that all inquiries should go to committees disposed to make them; and it was without precedent or justification, and injurious to the fair conducting of business, to take an inquiry out of the hands of a member that moves it, and is responsible for its adequate prosecution, and refer it to a committee that is against it, or indifferent to it. When a member gets up, and moves an inquiry touching any branch of the public service, or the official conduct of any officer, he incurs a responsibility to the moral sense of the House and of the country. He assumes that there is something wrong—that he can find it out if he has a chance; and he is entitled to a chance, both for his own sake and the country; and not only to have his committee, but to be its chairman, and to have a majority of the members favorable to its object. If it were otherwise members would have but poor encouragement to move inquiries for the public service. Cut off himself from the performance of his work, an indifferent or prejudiced committee may neglect inquiry, or pervert it into defence; and subject the mover to the imputation of preferring false and frivolous motions; and so discredit him, while injuring the public, and sheltering abuse. Under a just report he believed the Academy would wither and die. Under its present organization it is a monopoly for the gratuitous education of the sons and connections of the rich and influential—to be afterwards preferred for army appointments, or even for civil appointments; and to be always provided for as the children of the government, getting not only gratuitous education, but a preference in appointments. A private soldier, though a young David, slaying Goliath, could get no appointment in our army. He must stand back for a West-Pointer, even the most inefficient, who through favor, or driving, had gone through his course and got his diploma. Promotion was the stimulus and the reward to merit. We, members of Congress, rise

from the ranks of the people when we come here, and have to depend upon merit to get here. Why not let the same rule apply in the army, and give a chance to merit there, instead of giving all the offices to those who may have no turn for war, who only want support, and get it by public patronage, and favor, because they have official friends or parents? The report made at the last session looks bad for the Academy. Let any one read it, and he will feel that there is something wrong. If the friends of the institution would suffer that report to be printed, and let it go to the people, it would be a great satisfaction. Mr. Wardwell said the last Congress had refused to print the report; and asked why it was that these complaints against the Academy came from the West? Was it because the Western engineers wanted the employment on the roads and bridges in place of the regular officers. Mr. Hannegan, of Indiana, said he was a member of the military committee which made the report at the last session, and which Mr. Wardwell had reminded them the House refused to order to be printed. And why that refusal? Because the friends of the Academy took post behind the two-thirds rule; and the order for printing could not be obtained because two-thirds of the House could not be got to suspend the rule, even for one hour, and that the morning hour. The friends of the Academy rallied, he said, to prevent the suspension of the rule, and to prevent publicity to the report. Mr. Hamer, of Ohio, said, why oppose this inquiry? The people desire it. A large portion of them believed the Academy to be an aristocratical institution, which ought to be abolished; others believe it to be republican, and that it ought to be cherished. Then why not inquire, and find out which is right, and legislate accordingly? Mr. Abijah Mann, of New-York, said there was a considerable interest in the States surrounding this institution, and he had seen a strong disposition in the members coming from those States to defend it against all charges. He was a member of the committee of twenty-four at the last session, and concurred partially in the report which was made, which was, to say the least of it, an elaborate examination of the institution from its foundation. He knew that in doing so he had incurred some censure from a part of his own State; but he never had flinched, and never would flinch, from the performance of any duty here which he felt it incumbent upon him to discharge. He had found much to censure, and believed if the friends of the institution would take the trouble to investigate it as the committee of twenty-four had done, they would find more to censure in the principle of the establishment than they were aware of. There were abuses in this institution, developed in that report, of a character that would not find, he presumed, a single advocate upon that floor when they came to be published. He believed the principle of the institution was utterly inconsistent with the principle of all other institutions; but he was not for exterminating it. Reformation was his object. It was the only avenue by which the people of the country could approach the offices of the army—the only gateway by which they could be reached. The principle was wrong, and the practice bad. We saw individuals continually pressing the government for admission into this institution, to be educated professedly for the military service, but very frequently, and too generally with the secret design in their hearts to devote themselves to the civil pursuits of society; and this was a fraud upon the government, and a poor way for the future officer to begin his educational life. When the report of the twenty-four came to be printed, as he hoped it would, it would be seen that this institution cost the government by far too much for the education of these young men. Whether it sprung from abuse or not, such was the fact when they looked at utility connected with the expenditure. If he recollected the report aright it proved that not more than two out of five who entered the institution remained there long enough to graduate; and not two more out of five graduates who entered the army. If his memory served him right the report would show that every graduate coming from that institution in the last ten years, had cost the United States more than five thousand dollars; and previously a much larger sum; and he believed within one year the graduates had cost upwards of thirty thousand dollars. If there be any truth in these statements the institution must be mismanaged, or misconducted, and ought to be thoroughly investigated and reformed. And he appealed to the friends of the Academy to withdraw their opposition, and suffer the report to be printed, and the select committee to be raised; but he

appealed in vain. The opposition was kept up, and the two-thirds rule again resorted to, and effectually used to balk the friends of inquiry. It was after this second failure to get at the subject regularly through a committee, and a published report, that the friends of inquiry resorted to the last alternative—that of an attack upon the appropriation. The opportunity for this was not presented until near the end of the session, when Mr. Franklin Pierce, of New Hampshire, delivered a well-considered and well-reasoned speech against the institution, bottomed on facts, and sustained by conclusions, in the highest degree condemnatory of the Academy; and which will be given in the next chapter.

CHAPTER CXL.

MILITARY ACADEMY—SPEECH OF MR. PIERCE.

"Mr. Chairman:—An attempt was made during the last Congress to bring the subject of the reorganization of the Military Academy before the country, through a report of a committee. The same thing has been done during the present session, again and again, but all efforts have proved alike unsuccessful! Still, you do not cease to call for appropriations; you require the people's money for the support of the institution, while you refuse them the light necessary to enable them to judge of the propriety of your annual requisitions. Whether the amount proposed to be appropriated, by the bill upon your table, is too great or too small, or precisely sufficient to cover the current expenses of the institution, is a matter into which I will not at present inquire; but I shall feel bound to oppose the bill in every stage of its progress. I cannot vote a single dollar until the resolution of inquiry, presented by my friend from Kentucky (Mr. Hawes), at an early day in the session, shall be first taken up and disposed of. I am aware, sir, that it will be said, because I have heard the same declaration on a former occasion, that this is not the proper time to discuss the merits of the institution; that the bill is to make provision for expenses already incurred in part; and whatever opinions may be entertained upon the necessity of a reorganization, the appropriation must be made. I say to gentlemen who are opposed to the principles of the institution, and to those who believe that abuses exist, which ought to be exposed and corrected, that now is their only time, and this the only opportunity, during the present session, to attain their object, and I trust they will steadily resist the bill until its friends shall find it necessary to take up the resolution of inquiry, and give it its proper reference.

"Sir, why has this investigation been resisted? Is it not an institution which has already cost this country more than three millions of dollars, for which you propose, in this very bill, an appropriation of more than one hundred and thirty thousand dollars, and which, at the same time, in the estimation of a large portion of the citizens of this Union, has failed, eminently failed, to fulfil the objects for which it was established, of sufficient interest and importance to claim the consideration of a committee of this House, and of the House itself? I should have expected the resolution of the gentleman from Kentucky (Mr. Hawes), merely proposing an inquiry, to pass without opposition, had I not witnessed the strong sensation, nay, excitement, that was produced here, at the last session, by the presentation of his yet unpublished report. Sir, if you would have an exhibition of highly excited feeling, it requires little observation to learn that you may produce it at any moment by attacking such laws as confer exclusive and gratuitous privileges. The adoption of the resolution of inquiry, at the last session of Congress, and the appointment of a select committee under it, were made occasion of newspaper paragraphs, which, in tone of lamentation and direful prediction, rivalled the most highly wrought specimens of the panic era. One of those articles I have preserved, and have before me. It commences thus: '*The architects of ruin.*—This name has been appropriately given to those who are leading on the base, the ignorant, and the unprincipled, in a remorseless war upon all the guards and defences of society.'

"I introduce it here merely to show what are, in certain quarters, considered the guards and defences of society. After various compliments, similar to that just cited, the article proceeds: 'All this is dangerous as novel, and the ultimate results cannot be contemplated without anxiety. If this spirit extends, who can check it? "Down with the Bank;" "down with the Military Academy;" "down with the Judiciary;" "down with the Senate;" will be followed by watchwords of a worse character.' Here, Mr. Chairman, you have the United States Bank first, and then the Military Academy, as the guards and defences of your country. If it be so, you are, indeed, feebly protected. One of these guards and defences is already tottering. And who are the 'architects of ruin' that have resolved its downfall? Are they the base, the ignorant, and the unprincipled? No, sir. The most pure and patriotic portion of your community: the staid, industrious, intelligent farmers and mechanics, through a public servant, who has met responsibilities and seconded their wishes, with equal intrepidity and success, in the camp and in the cabinet, have accomplished this great work. Mr. Chairman, there is no real danger to be apprehended from this much-dreaded levelling principle.

"From the middling interest you have derived your most able and efficient support in the most gloomy and trying periods of your history. And what have they asked in return? Nothing but the common advantages and blessings of a free government, administered under equal and impartial laws. They are responsible for no portion of your legislation, which, through its partial and unjust operation, has shaken this Union to its centre. That has had its origin in a different quarter, sustained by wealth, the wealth of monopolies, and the power and influence which wealth, thus accumulated and disposed, never fails to control. Indeed, sir, while far from demanding at your hands special favors for themselves, they have not, in my judgment, been sufficiently jealous of all legislation conferring exclusive and gratuitous privileges.

"That the law creating the institution, of which I am now speaking, and the practice under it, is strongly marked by both these characteristics, is apparent at a single glance. It is gratuitous, because those who are so fortunate as to obtain admission there, receive their education without any obligation, except such as a sense of honor may impose, to return, either by service or otherwise, the slightest equivalent. It is exclusive, inasmuch as only one youth, out of a population of more than 47,000, can participate in its advantages at the same time; and those who are successful are admitted at an age, when their characters cannot have become developed, and with very little knowledge of their adaptation, mental or physical, for military life. The system disregards one of those great principles which, carried into practice, contributed, perhaps, more than any other to render the arms of Napoleon invincible for so many years. Who does not percieve that it destroys the very life and spring of military ardor and enthusiasm, by utterly foreclosing all hope of promotion to the soldier and non-commissioned officer? However meritorious may be his services, however pre-eminent may become his qualifications for command, all is unavailing. The portcullis is dropped between him and preferment; the wisdom of your laws having provided another criterion than that of admitted courage and conduct, by which to determine who are worthy of command. They have made an Academy, where a certain number of young gentlemen are educated annually at the public expense, and to which there is, of consequence, a general rush, not so much from sentiments of patriotism and a taste for military life, as from motives less worthy—the avenue, and the only avenue, to rank in your army. These are truths, Mr. Chairman, which no man will pretend to deny; and I leave it for this House and the nation to determine whether they do not exhibit a spirit of exclusiveness, alike at variance with the genius of your government, and the efficiency and chivalrous character of your military force.

"Sir, no man can feel more deeply interested in the army, or entertain a higher regard for it, than myself. My earliest recollections connect themselves fondly and gratefully with the names of the brave men who, relinquishing the quiet and security of civil life, were staking their all upon the defence of their country's rights and honor. One of the most distinguished among that noble band now occupies and honors a seat upon this floor. It is not fit that I should indulge in expressions of personal respect and admiration, which I am sure would find a hearty response in the bosom of every member of this committee. I allude to him merely to express the hope that, on some occasion, we may have, upon this subject, the benefit of his experience and observation. And if his opinions shall differ from my own, I promise carefully to review every step by which I have been led to my present conclusions. You cannot mistake me, sir; I refer to the hero of Erie. I have declared myself the friend of the army. Satisfy me, then, what measures are best calculated to render it effective and what all desire it to be, and I go for the proposition with my whole heart.

"But I cannot believe that the Military Academy, as at present organized, is calculated to accomplish this desirable end. It may, and undoubtedly does, send forth into the country much military knowledge; but the advantage which your army, or that which will constitute your army in time of need, derives from it, is by no means commensurate with the expense you incur. Here, Mr. Chairman, permit me to say that I deny, utterly, the expediency, and the right to educate, at the public expense, any number of young men who, on the completion of their education, are not to form a portion of your military force, but to return to the walks of private life. Such was never the operation of the Military Academy, until after the law of 1812; and the doctrine, so far as I have been able to ascertain, was first formally announced by a distinguished individual, at this time sufficiently jealous of the exercise of executive patronage, and greatly alarmed by what he conceives to be the tendencies of this government to centralism and consolidation. It may be found in the report of the Secretary of War, communicated to Congress in 1819.

"If it shall, upon due consideration, receive the sanction of Congress and the country, I can see no limit to the exercise of power and government patronage. Follow out the principle, and where will it lead you? You confer upon the national government the absolute guardianship of literature and science, military and civil; you need not stop at military science; any one, in the wide range of sciences, becomes at once a legitimate and constitutional object of your patronage; you are confined by no limit but your discretion; you have no check but your own good pleasure. If you may afford instruction, at the public expense, in the languages, in philosophy, in chemistry, and in the exact sciences, to young gentlemen who are under no obligation to enter the service of their country,

but are, in fact, destined for civil life, why may you not, by parity of reasoning, provide the means of a legal, or theological, or medical education, on the ground that the recipients of your bounty will carry forth a fund of useful knowledge, that may, at some time, under some circumstances, produce a beneficial influence, and promote 'the general welfare?' Sir, I fear that even some of us may live to see the day when this 'general welfare' of your constitution will leave us little ground to boast of a government of limited powers. But I did not propose at this time to discuss the abstract question of constitutional right. I will regard the expediency alone; and, whether the power exist or not, its exercise, in an institution like this, is subversive of the only principle upon which a school, conducted at the public expense, can be made profitable to the public service—that of making an admission into your school, and an education there, secondary to an appointment in the army. Sir, this distinctive feature characterized all your legislation, and all executive recommendations, down to 1810.

"I may as well notice here, as at any time, an answer which has always been ready when objections have been raised to this institution—an answer which, if it has not proved quite satisfactory to minds that yield their assent more readily to strong reasons than to the authority of great names, has yet, unquestionably, exercised a powerful influence upon the public mind. It has not gone forth upon the authority of an individual merely, but has been published to the world with the approbation of a committee of a former Congress. It is this: that the institution has received, at different times, the sanction of such names as Washington, Adams, and Jefferson; and this has been claimed with such boldness, and in a form so imposing, as almost to forbid any question of its accuracy. If this were correct, in point of fact, it would be entitled to the most profound respect and consideration, and no change should be urged against the weight of such authority, without mature deliberation, and thorough conviction of, expediency. Unfortunately for the advocates of the institution, and fortunately for the interests of the country, this claim cannot be sustained by reference to executive documents, from the first report of General Knox, in 1790, to the close of Mr. Jefferson's administration.

"The error has undoubtedly innocently occurred, by confounding the Military Academy at West Point as it was, with the Military Academy at West Point as it is. The report of Secretary Knox, just referred to, is characterized by this distinctive feature—that the corps proposed to be organized were 'to serve as an actual defence to the community,' and to constitute a part of the active military force of the country, 'to serve in the field, or on the frontier, or in the fortifications of the sea-coast, as the commander-in-chief may direct.' At a later period, the report of the Secretary of War (Mr. McHenry), communicated to Congress in 1800 although it proposed a plan for military schools, differing in many essential particulars from those which had preceded it, still retained the distinctive feature just named as characterizing the report of General Knox.

"With regard to educating young men gratuitously, which, whatever may have been the design, I am prepared to show is the practical operation of the Academy, as at present organized, I cannot, perhaps, exhibit more clearly the sentiments of the Executive at that early day, urgent as was the occasion, and strong as must have been the desire, to give strength and efficiency to the military force, than by reading one or two paragraphs from a supplementary report of Secretary McHenry, addressed to the chairman of the Committee of Defence, on the 31st January, 1800.

"The Secretary says: 'Agreeably to the plan of the Military Academy, the directors thereof are to be officers taken from the army; consequently, no expense will be incurred by such appointments. The plan also contemplates that officers of the army, cadets, and non-commissioned officers, shall receive instruction in the Academy. As the rations and fuel which they are entitled to in the army will suffice for them in the Academy, no additional expense will be required for objects of maintenance while there. The expenses of servants and certain incidental expenses relative to the police and administration, may be defrayed by those who shall be admitted, out of their pay and emoluments.'

"You will observe, Mr. Chairman, from the phraseology of the report, that all were to constitute a part of your actual military force; and that whatever additional charges should be incurred, were to be defrayed by those who might receive the advantages of instruction. These were provisions, just, as they are important. Let me call your attention for a moment to a report of Col. Williams, which was made the subject of a special message, communicated to Congress by Mr. Jefferson, on the 18th of March, 1808. The extract I propose to read, as sustaining fully the views of Mr. McHenry upon this point, is in the following words: 'It might be well to make the plan upon such a scale as not only to take in the minor officers of the navy, but also any youths from any of the States who might wish for such an education, whether designed for the army or navy, or neither, and let them be assessed to the value of their education, which might form a fund for extra or contingent expenses.' Sir, these are the true doctrines upon this subject; doctrines worthy of the administration under which they were promulgated, and in accordance with the views of statesmen in the earlier and purer days of the Republic. Give to the officers of your army the highest advantages for perfection in all the branches of military science, and let those advantages be open to all, in rotation, and under such terms and regulations as shall be at once impartial toward the officers

and advantageous to the service; but let all young gentlemen who have a taste for military life, and desire to adopt arms as a profession, prepare themselves for subordinate situations at their own expense, or at the expense of their parents or guardians, in the same manner that the youth of the country are qualified for the professions of civil life. Sir, while upon this subject of gratuitous education, I will read an extract from 'Dupin's Military Force of Great Britain,' to show what favor it finds in another country, from the practice and experience of which we may derive some advantages, however far from approving of its institutions generally. The extract is from the 2d vol. 71st page, and relates to the terms on which young gentlemen are admitted to the junior departments of the Royal Military College at Sandhurst.

"*First:* The sons of officers of all ranks, whether of the land or sea forces, who have died in the service, leaving their families in pecuniary distress; this class are instructed, boarded, and habited gratuitously by the State; being required only to provide their equipments on admission, and to maintain themselves in linen. *Secondly:* The sons of all officers of the army above the rank of subalterns actually in the service, and who pay a sum proportioned to their ranks, according to a scale per annum regulated by the supreme board. The sons of living naval officers of rank not below that of master and commander, are also admitted on payment of annual stipends, similar to those of corresponding ranks in the army. The orphan sons of officers, who have not left their families in pecuniary difficulties, are admitted into this class on paying the stipends required of officers of the rank held by their parents at the time of their decease. *Thirdly:* The sons of noblemen and private gentlemen who pay a yearly sum equivalent to the expenses of their education, board, and clothing, according to a rate regulated from time to time by the commissioners.' Sir, let it be remembered that these are the regulations of a government which, with all its wealth and power, is, from its structure and practice, groaning under the accumulated weight of pensions, sinecures, and gratuities, and yet you observe, that only one class, 'the sons of officers of all ranks, whether of the land or sea forces, who have died in the service, leaving their families in pecuniary distress,' are educated gratuitously.

"I do not approve even of this, but I hold it up in contrast with your own principles and practice. If the patience of the committee would warrant me, Mr. Chairman, I could show, by reference to Executive communications, and the concurrent legislation of Congress in 1794, 1796, 1802, and 1808, that prior to the last mentioned date, such an institution as we now have was neither recommended nor contemplated. Upon this point I will not detain you longer; but when hereafter confronted by the authority of great names, I trust we shall be told where the expressions of approbation are to be found. We may then judge of their applicability to the Military Academy as at present organized. I am far from desiring to see this country destitute of a Military Academy; but I would have it a school of practice, and instruction, for officers actually in the service of the United States: not an institution for educating gratuitously, young gentlemen, who, on the completion of their term, or after a few months' leave of absence, resign their commissions and return to the pursuits of civil life. If any one doubts that this is the practical operation of your present system, I refer him to the annual list of resignations, to be found in the Adjutant General's office.

"Firmly as I am convinced of the necessity of a reorganization, I would take no step to create an unjust prejudice against the institution. All that I ask, and, so far as I know, all that any of the opponents of the institution ask, is, that after a full and impartial investigation, it shall stand or fall upon its merits. I know there are graduates of the institution who are ornaments to the army, and an honor to their country; but they, and not the seminary, are entitled to the credit. Here I would remark, once for all, that I do not reflect upon the officers or pupils of the Academy; it is to the principles of the institution itself, as at present organized, that I object. It is often said that the graduates leave the institution with sentiments that but ill accord with the feelings and opinions of the great mass of the people of that government from which they derive the means of education, and that many who take commissions possess few qualifications for the command of men, either in war or in peace. Most of the members of this House have had more or less intercourse with these young gentlemen, and I leave it for each individual to form his own opinion of the correctness of the charges. Thus much I will say for myself, that I believe that these, and greater evils, are the natural, if not the inevitable, result of the principles in which this institution is founded; and any system of education, established upon similar principles, on government patronage alone, will produce like results, now and for ever. Sir, what are some of these results? By the report of the Secretary of War, dated January, 1831, we are informed that, "by an estimate of the last five years (preceding that date), it appears that the supply of the army from the corps of graduated cadets, has averaged about twenty-two annually, while those who graduated are about forty, making in each year an excess of eighteen. The number received annually into the Academy averages one hundred, of which only the number stated, to wit, forty, pass through the prescribed course of education at schools, and become supernumerary lieutenants in the army." By the report of the Secretary of War, December, 1830, we are informed, that "the number of promotions to the army from this corps, for the last five years, has averaged about twenty-two annually while the number of

graduates has been at an average of forty. This excess, which is annually increasing, has placed eighty-seven in waiting until vacancies shall take place, and show that in the next year, probably, and in the succeeding one, certainly, there will be an excess beyond what the existing law authorizes to be commissioned. There will then be 106 supernumerary brevet second lieutenants appurtenant to the army, at an average annual expense of $80,000. Sir, that results here disclosed were not anticipated by Mr. Madison, is apparent from a recurrence to his messages of 1810 and 1811.

"In passing the law of 1812, both Congress and the President acted for the occasion, and they expected those who should succeed them to act in a similar manner. Their feelings of patriotism and resentment were aroused, by beholding the privileges of freemen wantonly invaded, our glorious stars and stripes disregarded, and national and individual rights trampled in the dust. The war was pending. The necessity for increasing the military force of the country was obvious and pressing, and the urgent occasion for increased facilities for military instruction, equally apparent. Sir, it was under circumstances like these, when we had not only enemies abroad, but, I blush to say, enemies at home, that the institution, as at present organized, had its origin. It will hardly be pretended that it was the original design of the law to augment the number of persons instructed, beyond the wants of the public service. Well, the report of the Secretary shows, that for five years prior to 1831, the Academy had furnished eighteen supernumeraries annually. A practical operation of this character has no sanction in the recommendation of Mr. Madison. The report demonstrates, further, the *fruitfulness* and *utility* of this institution, by showing the fact, that but two-fifths of those who enter the Academy graduate, and that but a fraction more than one-fifth enter the public service. This is not the fault of the administration of the Academy; it is not the fault of the young gentlemen who are *sent* there; on your present peace establishment there can be but little to stimulate them, particularly in the acquisition of military science. There can hardly be but one object in the mind of the student, and that would be to obtain an education for the purposes of civil life. The difficulty is, that the institution has outlived both the occasion that called it into existence, and its original design. I have before remarked, that the Academy was manifestly enlarged to correspond with the army and militia actually to be called into service. Look then for a moment at facts, and observe with how much wisdom, justice, and sound policy, you retain the provisions of the law of 1812. The total authorized force of 1813, after the declaration of war, was 58,254; and in October, 1814, the military establishment amounted to 62,428. By the act of March, 1815, the peace establishment was limited to 10,000, and now hardly exceeds that number. Thus you make a reduction of more than 50,000 in your actual military force, to accommodate the expenses of the government to its wants. And why do you refuse to do the same with your grand system of public education? Why does that remain unchanged? Why not reduce it at once, at least to the actual wants of the service, and dispense with your corps of supernumerary lieutenants? Sir, there is, there can be but one answer to the question, and that may be found in the war report of 1819, to which I have before had occasion to allude. The Secretary says, 'the cadets who cannot be provided for in the army will return to private life, but in the event of a war their knowledge will not be lost to the country.' Indeed, sir, these young gentlemen, if they could be *induced* to take the field, would, after a lapse of ten or fifteen years, come up from the bar, or it may be the pulpit, fresh in military science, and admirably qualified for command in the face of an enemy. The magazine of facts, to prove at the same glance the extravagance and unfruitfulness of this institution, is not easily exhausted: but I am admonished by the lateness of the hour to omit many considerations which I regard as both interesting and important. I will only detain the committee to make a single statement, placing side by side some aggregate results. There has already been expended upon the institution more than three millions three hundred thousand dollars. Between 1815, and 1821, thirteen hundred and eighteen students were admitted into the Academy; and of all the cadets who were ever there, only two hundred and sixty-five remained in the service at the end of 1830. Here are the expenses you have incurred, and the products you have realized.

"I leave them to be balanced by the people. But for myself, believing as I do, that the Academy stands forth as an anomaly among the institutions of this country; that it is at variance with the spirit, if not the letter of the constitution under which we live; so long as this House shall deny investigation into its principles and practical operation, I, as an individual member, will refuse to appropriate the first dollar for its support."

CHAPTER CXLI.

EXPUNGING RESOLUTION—PERORATION OF SENATOR BENTON'S SECOND SPEECH.

"THE condemnation of the President, combining as it did all that illegality and injustice could inflict, had the further misfortune to be co-operative in its effect with the conspiracy of the Bank of the United States to effect the most wicked

and universal scheme of mischief which the annals of modern times exhibit. It was a plot against the government, and against the property of the country. The government was to be upset, and property revolutionized. Six hundred banks were to be broken—the general currency ruined—myriads bankrupted—all business stopped—all property sunk in value—all confidence destroyed! that out of this wide spread ruin and pervading distress, the vengeful institution might glut its avarice and ambition, trample upon the President, take possession of the government, reclaim its lost deposits, and perpetuate its charter. These crimes, revolting and frightful in themselves, were to be accomplished by the perpetration of a whole system of subordinate and subsidiary crime! the people to be deceived and excited; the President to be calumniated; the effects of the bank's own conduct to be charged upon him; meetings got up; business suspended; distress deputations organized; and the Senate chamber converted into a theatre for the dramatic exhibition of all this fictitious woe. That it was the deep and sad misfortune of the Senate so to act, as to be co-operative in all this scene of mischief, is too fully proved by the facts known, to admit of denial. I speak of acts, not of motives. The effect of the Senate's conduct in trying the President and uttering alarm speeches, was to co-operate with the bank, and that secondarily, and as a subordinate performer; for it is incontestable that the bank began the whole affair; the little book of fifty pages proves that. The bank began it; the bank followed it up; the bank attends to it now. It is a case which might well be entered on our journal as a State is entered against a criminal in the docket of a court: the Bank of the United States *versus* President Jackson: on impeachment for removing the deposits. The entry would be justified by the facts, for these are the indubitable facts. The bank started the accusation; the Senate took it up. The bank furnished arguments; the Senate used them. The bank excited meetings; the Senate extolled them. The bank sent deputations; the senators received them with honor. The deputations reported answers for the President which he never gave; the Senate repeated and enforced these answers. Hand in hand throughout the whole process, the bank and the Senate acted together, and succeeded in getting up the most serious and afflicting panic ever known in this country. The whole country was agitated. Cities, towns, and villages, the entire country and the whole earth seemed to be in commotion against one man. A revolution was proclaimed! the overthrow of all law was announced! the substitution of one man's will for the voice of the whole government, was daily asserted! the public sense was astounded and bewildered with dire and portentous annunciations! In the midst of all this machinery of alarm and distress, many good citizens lost their reckoning; sensible heads went wrong; stout hearts quailed; old friends gave way; temporizing counsels came in; and the solitary defender of his country was urged to yield! Oh, how much depended upon that one man at that dread and awful point of time! If he had given way, then all was gone! An insolent, rapacious, and revengeful institution would have been installed in sovereign power. The federal and State governments, the Congress, the Presidency, the State legislatures, all would have fallen under the dominion of the bank; and all departments of the government would have been filled and administered by the debtors, pensioners, and attorneys of that institution. He did not yield, and the country was saved. The heroic patriotism of one man prevented all this calamity, and saved the Republic from becoming the appendage and fief of a moneyed corporation. And what has been his reward? So far as the people are concerned, honor, gratitude, blessings, everlasting benedictions; so far as the Senate is concerned, dishonor, denunciation, stigma, infamy. And shall these two verdicts stand? Shall our journal bear the verdict of infamy, while the hearts of the people glow and palpitate with the verdict of honor?

"President Jackson has done more for the human race than the whole tribe of politicians put together; and shall he remain stigmatized and condemned for the most glorious action of his life? The bare attempt to stigmatize Mr. Jefferson was not merely expunged, but cut out from the journal; so that no trace of it remains upon the Senate records. The designs are the same in both cases; but the aggravations are inexpressibly greater in the case of President Jackson. Referring to the journals of the House of Representatives for the character of the attempt against President Jefferson, and the rea-

sons for repulsing it, and it is seen that the attempt was made to criminate Mr. Jefferson, and to charge him upon the journals with a violation of the laws; and that this attempt was made at a time, and under circumstances insidiously calculated to excite unjust suspicion in the minds of the people against the Chief Magistrate. Such was precisely the character of the charge; and the effect of the charge against President Jackson, with the difference only that the proceeding against President Jackson, was many ten thousand times more revolting and aggravated; commencing as it did in the Bank, carried on by a violent political party, prosecuted to sentence and condemnation; and calculated, if believed, to destroy the President, to change the administration, and to put an end to popular representative government. Yes, sir, to put an end to elective and representative government! For what are all the attacks upon President Jackson's administration but attacks upon the people who elect and re-elect him, who approve his administration, and by approving, make it their own? To condemn such a President, thus supported, is to condemn the pople, to condemn the elective principle, to condemn the fundamental principle of our government; and to establish the favorite dogma of the monarchists, that the people are incapable of self-government, and will surrender themselves as collared slaves into the hands of military chieftains.

"Great are the services which President Jackson has rendered his country. As a General he has extended her frontiers, saved a city, and carried her renown to the highest pitch of glory. His civil administration has rivalled and transcended his warlike exploits. Indemnities procured from the great powers of Europe for spoliations committed on our citizens under former administrations, and which, by former administrations were reclaimed in vain; peace and friendship with the whole world, and, what is more, the respect of the whole world; the character of our America exalted in Europe; so exalted that the American citizen treading the continent of Europe, and contemplating the sudden and great elevation of the national character, might feel as if he himself was an hundred feet high. Such is the picture abroad! At home we behold a brilliant and grateful scene; the public debt paid,—taxes reduced,—the gold currency restored,—the Southern States released from a useless and dangerous population,—all disturbing questions settled,—a gigantic moneyed institution repulsed in its march to the conquest of the government,—the highest prosperity attained,—and the Hero Patriot now crowning the list of his glorious services by covering his country with the panoply of defence, and consummating his measures for the restoration and preservation of the currency of the constitution. We have had brilliant and prosperous administrations; but that of President Jackson eclipses, surpasses, and casts into the shade, all that have preceded it. And is he to be branded, stigmatized, condemned, unjustly and untruly condemned; and the records of the Senate to bear the evidence of this outrage to the latest posterity? Shall this President, so glorious in peace and in war, so successful at home and abroad, whose administration, now, hailed with applause and gratitude by the people, and destined to shine for unnumbered ages in the political firmament of our history: shall this President, whose name is to live for ever, whose retirement from life and services will be through the gate that leads to the temple of everlasting fame; shall *he* go down to posterity with this condemnation upon him; and that for the most glorious action of his life?

"Mr. President, I have some knowledge of history, and some acquaintance with the dangers which nations have encountered, and from which heroes and statesmen have saved them. I have read much of ancient and modern history, and nowhere have I found a parallel to the services rendered by President Jackson in crushing the conspiracy of the Bank, but in the labors of the Roman Consul in crushing the conspiracy of Catiline. The two conspiracies were identical in their objects; both directed against the government, and the property of the country. Cicero extinguished the Catilinarean conspiracy, and saved Rome; President Jackson defeated the conspiracy of the Bank, and saved our America. Their heroic service was the same, and their fates have been strangely alike. Cicero was condemned for violating the laws and the constitution; so has been President Jackson. The consul was refused a hearing in his own defence: so has been President Jackson. The life of Cicero was attempted by two assassins; twice was the murderous pistol levelled at our President. All Italy, the whole Roman world,

bore Cicero to the Capitol, and tore the sentence of the consul's condemnation from the *fasti* of the republic: a million of Americans, fathers and heads of families, now demand the expurgation of the sentence against the President. Cicero, followed by all that was virtuous in Rome, repaired to the temple of the tutelary gods, and swore upon the altar that he had saved his country: President Jackson, in the temple of the living God, might take the same oath, and find its response in the hearts of millions. Nor shall the parallel stop here; but after times, and remote posterities shall render the same honors to each. Two thousand years have passed, and the great actions of the consul are fresh and green in history. The school-boy learns them; the patriot studies them; the statesman applies them: so shall it be with our patriot President. Two thousand years hence,—ten thousand,—nay, while time itself shall last, for who can contemplate the time when the memory of this republic shall be lost? while time itself shall last, the name and fame of Jackson shall remain and flourish; and this last great act by which he saved the government from subversion, and property from revolution, shall stand forth as the seal and crown of his heroic services. And if any thing that I myself may do or say, shall survive the brief hour in which I live, it will be the part which I have taken, and the efforts which I have made, to sustain and defend the great defender of his country.

"Mr. President, I have now finished the view which an imperious sense of duty has required me to take of this subject. I trust that I have proceeded upon proofs and facts, and have left nothing unsustained which I feel it to be my duty to advance. It is not my design to repeat, or to recapitulate; but there is one further and vital consideration which demands the notice of a remark, and which I should be faithless to the genius of our government, if I should pretermit. It is known, sir, that ambition for office is the bane of free States, and the contentions of rivals the destruction of their country. These contentions lead to every species of injustice, and to every variety of violence, and all cloaked with the pretext of the public good. Civil wars and banishment at Rome; civil wars, and the ostracism at Athens; bills of attainder, star-chamber prosecutions, and impeachments in England; all to get rid of some envied, or hated rival, and all pretexted with the public good: such has been the history of free States for two thousand years. The wise men who framed our constitution were well aware of all this danger and all this mischief, and took effectual care, as they thought, to guard against it. Banishment, the ostracism, the star-chamber prosecutions, bills of attainder, all those summary and violent modes of hunting down a rival, which deprive the victim of defence by depriving him of the intervention of an accusing body to stand between the accuser and the trying body; all these are proscribed by the genius of our constitution. Impeachments alone are permitted; and these would most usually occur for political offences, and be of a character to enlist the passions of many, and to agitate the country. An effectual guard, it was supposed, was provided against the abuse of the impeachment power, first, by requiring a charge to be preferred by the House of Representatives, as the grand Inquest of the nation; and *next*, in confining the trial to the Senate, and requiring a majority of two-thirds to convict. The gravity, the dignity, the age of the senators, and the great and various powers with which they were invested—greater and more various than are united in the same persons under any other constitutional government upon earth—these were supposed to make the Senate a safe depository for the impeachment power; and if the plan of the constitution is followed out it must be admitted to be so. But if a public officer can be arraigned by his rivals before the Senate for impeachable offences without the intervention of the House of Representatives, and if he can be pronounced guilty by a simple majority, instead of a majority of two-thirds, then has the whole frame of our government miscarried, and the door left wide open to the greatest mischief which has ever afflicted the people of free States. Then can rivals and competitors go on to do what it was intended they should never do; accuse, denounce, condemn, and hunt down each other! Great has been the weight of the American Senate. Time *was* when its rejections for office were fatal to character; time *is* when its rejections are rather passports to public favor. Why this sad and ominous decline? Let no one deceive himself. Public opinion is the arbiter of character in our enlightened day; it is the Areopagus from

which there is no appeal! That arbiter has pronounced against the Senate. It has sustained the President, and condemned the Senate. If it had sustained the Senate, the President must have been ruined! as it has not, the Senate must be ruined, if it perseveres in its course, and goes on to brave public opinion!—as an institution, it must be ruined!

CHAPTER CXLII.

DISTRIBUTION OF THE LAND REVENUE.

"The great loss of the bank has been in the depreciation of the securities; and the only way to regain a capital is to restore their value. A large portion of them consists of State stocks, which are so far below their intrinsic worth that the present prices could not have been anticipated by any reasonable man. No doubt can be entertained of their ultimate payment. The States themselves, unaided, can satisfy every claim against them; they will do it speedily, if Congress adopt the measures contemplated for their relief. A division of the public lands among the States, which would enable them all to pay their debts—or a pledge of the proceeds of sales for that purpose—would be abundant security. Either of these acts would inspire confidence, and enhance the value of all kinds of property." This paragraph appeared in the Philadelphia National Gazette, was attributed to Mr. Biddle, President of the Bank of the United States; and connects that institution with all the plans for distributing the public land money among the States, either in the shape of a direct distribution, or in the disguise of a deposit of the surplus revenue; and this for the purpose of enhancing the value of the State stocks held by it. That institution was known to have interfered in the federal legislation, to promote or to baffle the passage of laws, as deemed to be favorable or otherwise to her interests; and this resort to the land revenue through an act of Congress was an eminent instance of the spirit of interference. This distribution had become, very nearly, a party measure; and of the party of which the bank was a member, and Mr. Clay the chief. He was the author of the scheme—had introduced it at several sessions—and now renewed it. Mr. Webster also made a proposition to the same effect at this session. It was the summer of the presidential election; and great calculations were made by the party which favored the distribution upon its effect in adding to their popularity. Mr. Clay limited his plan of distribution to five years; but the limitation was justly considered as nothing—as a mere means of beginning the system of these distributions—which once began, would go on of themselves, while our presidential elections continued, and any thing to divide could be found in the treasury. Mr. Benton opposed the whole scheme, and confronted it with a proposition to devote the surplus revenue to the purposes of national defence; thereby making an issue, as he declared, between the plunder of the country and the defence of the country. He introduced an antagonistic bill, as he termed it, devoting the surplus moneys to the public defences; and showing by reports from the war and navy departments that seven millions a year for fifteen years would be required for the completion of the naval defences, and thirty millions to complete the military defences; of which nine millions per annum could be beneficially expended; and then went on to say:

"That the reports from which he had read, taken together, presented a complete system of preparation for the national defence; every arm and branch of defence was to be provided for; an increase of the navy, including steamships; appropriate fortifications, including steam batteries; armories, foundries, arsenals, with ample supplies of arms and munitions of war; an increase of troops for the West and Northwest; a line of posts and a military road from the Red River to the Wisconsin, in the rear of the settlements, and mounted dragoons to scour the country; every thing was considered; all was reduced to system, and a general, adequate, and appropriate plan of national defence was presented, sufficient to absorb all the surplus revenue, and wanting nothing but the vote of Congress to carry it into effect. In this great system of national defence the whole Union was equally interested; for the country, in all that concerned its defences, was but a unit, and every section was interested in the defence of every other section, and every individual citizen was interested in the defence of the whole population. It was in vain to say that the navy was on the sea, and the fortifications on the seaboard, and that the citizens in the interior States, or in the valley of the Mississippi, had no interest in these remote defences. Such an idea was

mistaken and delusive. The inhabitant of Missouri and of Indiana had a direct interest in keeping open the mouths of the rivers, defending the seaport towns, and preserving a naval force that would protect the produce of his labor in crossing the ocean, and arriving safely in foreign markets. All the forts at the mouth of the Mississippi were just as much for the benefit of the western States, as if those States were down at the mouth of that river. So of all the forts on the Gulf of Mexico. Five forts are completed in the delta of the Mississippi; two are completed on the Florida or Alabama coast; and seven or eight more are projected; all calculated to give security to western commerce in passing through the Gulf of Mexico. Much had been done for that frontier, but more remained to be done; and among the great works contemplated in that quarter were large establishments at Pensacola, Key West, or the Dry Tortugas. Large military and naval stations were contemplated at these points, and no expenditure or preparations could exceed in amount the magnitude of the interests to be protected. On the Atlantic board the commerce of the States found its way to the ocean through many outlets, from Maine to Florida; in the West, on the contrary, the whole commerce of the valley of the Mississippi, all that of the Alabama, of western Florida, and some part of Georgia, passes through a single outlet, and reaches the ocean by passing between Key West and Cuba. Here, then, is an immense commerce collected into one chaunel, compressed into one line, and passing, as it were, through one gate. This gives to Key West and the Dry Tortugas an importance hardly possessed by any point on the globe; for, besides commanding the commerce of the entire West, it will also command that of Mexico, of the West Indies, of the Caribbean sea, and of South America down to the middle of that continent at its most eastern projection, Cape Roque. To understand the cause of all this (Mr. B. said), it was necessary to look to the trade winds, which, blowing across the Atlantic between the tropics, strike the South American continent at Cape Roque, follow the retreating coast of that continent up to the Caribbean sea, and to the Gulf of Mexico, creating the gulf stream as they go, and by the combined effect of a current in the air and in the water, sweeping all vessels from this side Cape Roque into its stream, carrying them round west of Cuba and bringing them out between Key West and the Havana. These two positions, then, constitute the gate through which every thing must pass that comes from the valley of the Mississippi, from Mexico, and from South America as low down as Cape Roque. As the masters of the Mississippi, we should be able to predominate in the Gulf of Mexico; and, to do so, we must have great establishments at Key West and Pensacola. Such establishments are now proposed; and every citizen of the West should look upon them as the guardians of his own immediate interests, the indispensable safeguard to his own commerce; and to him the highest, most sacred, and most beneficial object to which surplus revenue could be applied. The Gulf of Mexico should be considered as the estuary of the Mississippi. A naval and military supremacy should be established in that gulf, cost what it might; for without that supremacy the commerce of the entire West would lie at the mercy of the fleets and privateers of inimical powers.

"Mr. B. returned to the immediate object of his remarks—to the object of showing that the defences of the country would absorb every surplus dollar that would ever be found in the treasury. He recapitulated the aggregates of those heads of expenditure; for the navy, about forty millions of dollars, embracing the increase of the navy, navy yards, ordnance, and repairs of vessels for a series of years; for fortifications, about thirty millions, reported by the engineer department; and which sum, after reducing the size of some of the largest class of forts, not yet commenced, would still be large enough, with the sum reported by the ordnance department, amounting to near thirty millions, to make a totality not much less than one hundred millions; and far more than sufficient to swallow up all the surpluses which will ever be found to exist in the treasury. Even after deducting much from these estimates, the remainder will still go beyond any surplus that will actually be found. Every person knows that the present year is no criterion for estimating the revenue; excess of paper issues has inflated all business, and led to excess in all branches of the revenue; next year it will be down, and soon fall as much below the usual level as it now is above it. More than that; what is now called a surplus in the treasury is no surplus, but a mere accumulation for want of passing the appropriation bills. The whole of it is pledged to the bills which are piled upon our tables, and which we cannot get passed; for the opposition is strong enough to arrest the appropriations, to dam up the money in the treasury; and then call that a surplus which would now be in a course of expenditure, if the necessary appropriation bills could be passed.

"The public defences will require near one hundred millions of dollars; the annual amount required for these defences alone amount to thirteen or fourteen millions. The engineer department answers explicitly that it can beneficially expend six millions of dollars annually; the ordnance that it can beneficially expend three millions; the navy that it can beneficially expend several millions; and all this for a series of years. This distribution bill has five years to run, and in that time, if the money is applied to defence instead of distribution, the great work of national defence will be so far completed as to place the United States in a condition to cause her rights and her interests, her flag and her soil, to be honored and respected by the whole world."

The bill was passed in the Senate, though by a vote somewhat close—25 to 20. The yeas were:

Messrs. Black, Buchanan, Clay, Clayton, Crittenden, Davis, Ewing of Ohio, Goldsborough, Hendricks, Kent, Knight, Leigh, McKean, Mangum, Naudain, Nicholas, Porter, Prentiss, Preston, Robbins, Southard, Swift, Tomlinson, Webster, White.

Nays.—Messrs. Benton, Calhoun, Cuthbert, Ewing of Illinois, Grundy, Hill, Hubbard, King of Alabama, King of Georgia, Linn, Moore, Morris, Niles, Rives, Robinson, Ruggles, Shepley, Tallmadge, Walker, Wright.

Being sent to the House for concurrence it became evident that it could not pass that body; and then the friends of distribution in the Senate fell upon a new mode to effect their object, and in a form to gain the votes of many members who held distribution to be a violation of the constitution—among them Mr. Calhoun;—who took the lead in the movement. There was a bill before the Senate to regulate the keeping of the public moneys in the deposit banks; and this was turned into distribution of the surplus public moneys with the States, in proportion to their representation in Congress, to be returned when Congress should call for it: and this was called a deposit with the States; and the faith of the States pledged for returning the money. The deposit was defended on the same argument on which Mr. Calhoun had proposed to amend the constitution two years before; namely that there was no other way to get rid of the surplus. And to a suggestion from Mr. Wright that the moneys, when once so deposited might never be got back again, Mr. Calhoun answered:

"But the senator from New-York objects to the measure, that it would, in effect, amount to a distribution, on the ground, as he conceives, that the States would never refund. He does not doubt but that they would, if called on to refund by the government; but he says that Congress will in fact never make the call. He rests this conclusion on the supposition that there would be a majority of the States opposed to it. He admits, in case the revenue should become deficient, that the southern or staple States would prefer to refund their quota, rather than to raise the imposts to meet the deficit; but he insists that the contrary would be the case with the manufacturing States, which would prefer to increase the imposts to refunding their quota, on the ground that the increase of the duties would promote the interests of manufactures. I cannot agree with the senator that those States would assume a position so utterly untenable as to refuse to refund a deposit which their faith would be plighted to return, and rest the refusal on the ground of preferring to lay a tax, because it would be a bounty to them, and would consequently throw the whole burden of the tax on the other States. But, be this as it may, I can tell the senator that, if they should take a course so unjust and monstrous, he may be assured that the other States would most unquestionably resist the increase of the imposts; so that the government would have to take its choice, either to go without the money, or call on the States to refund the deposits."

Mr. Benton took an objection to this scheme of deposit, that it was a distribution under a false name, making a double disposition of the same money; that the land money was to be distributed under the bill already passed by the Senate: and he moved an amendment to except that money from the operation of the deposit to be made with the States. He said it was hardly to be supposed that, in the nineteenth century, a grave legislative body would pass two bills for dividing the same money; and it was to save the Senate from the ridicule of such a blunder that he called their attention to it, and proposed the amendment. Mr. Calhoun said there was a remedy for it in a few words, by adding a proviso of exception, if the land distribution bill became a law. Mr. Benton was utterly opposed to such a proviso—a proviso to take effect if the same thing did not become law in another bill. Mr. Morris also wished to know if the Senate was about to make a double distribution of the same money? As far it respected the action of the Senate the land bill was, to all intents and purposes, a law. It had passed the Senate, and they were done with it. It had changed its title from "bill" to "act." It was now the act of the Senate, and they could not know what disposition the House would make of it. Mr. Webster believed the land bill could not pass the House; that it was put to rest there; and therefore he had no objection to voting for the second one: thus admitting that, under the name of "distribution" the act could not pass the House, and that a change of name was indispensable. Mr. Wright made a speech of statements and facts to show that there would be no surplus; and taking up that idea, Mr. Benton spoke thus:

"About this time two years ago, the Senate was engaged in proclaiming the danger of a bankrupt Treasury, and in proving to the peo-

ple that utter ruin must ensue from the removal of the deposits from the Bank of the United States. The same Senate, nothing abated in confidence from the failure of former predictions, is now engaged in celebrating the prosperity of the country, and proclaiming a surplus of forty, and fifty, and sixty millions of dollars in that same Treasury, which so short a time since they thought was going to be bankrupt. Both occupations are equally unfortunate. Our Treasury is in no more danger of bursting from distension now, than it was of collapsing from depletion then. The ghost of the panic was driven from this chamber in May, 1834, by the report of Mr. Taney, showing that all the sources of the national revenue were in their usual rich and bountiful condition; and that there was no danger of bankruptcy. The speech and statement, so brief and perspicuous, just delivered by the senator from New York [Mr. Wright], will perform the same office upon the distribution spirit, by showing that the appropriations of the session will require nearly as much money as the public Treasury will be found to contain. The present exaggerations about the surplus will have their day, as the panic about an empty Treasury had its day; and time, which corrects all things, will show the enormity of these errors which excite the public mind, and stimulate the public appetite, for a division of forty, fifty, and sixty millions of surplus treasure."

The bill being ordered to a third reading, with only six dissenting votes, the author of this View could not consent to let it pass without an attempt to stigmatize it, and render it odious to the people, as a distribution in disguise—as a deposit never to be reclaimed; as a miserable evasion of the constitution; as an attempt to debauch the people with their own money; as plundering instead of defending the country; as a cheat that would only last till the presidential election was over; for there would be no money to deposit after the first or second quarter;—and as having the inevitable effect, if not the intention, to break the deposit banks; and, finally, as disappointing its authors in their schemes of popularity: in which he was prophetic; as, out of half a dozen aspirants to the presidency, who voted for it, no one of them ever attained that place. The following are parts of his speech:

"I now come, Mr. President (continued Mr. B.), to the second subject in the bill—the distribution feature—and to which the objections are, not of detail, but of principle; but which objections are so strong, in the mind of myself and some friends, that, far from shrinking from the contest, and sneaking away in our little minority of six, where we were left last evening, we come forward with unabated resolution to renew our opposition, and to signalize our dissent; anxious to have it known that we contended to the last against the seductions of a measure, specious to the view, and tempting to the taste, but fraught with mischief and fearful consequences to the character of this government, and to the stability and harmony of this confederacy.

"Stripping this enactment of statutory verbiage, and collecting the provisions of the section into a single view, they seem to be these: 1. The public moneys, above a specific sum, are to be deposited with the States, in a specified ratio; 2. The States are to give certificates of deposit, payable to the United States; but no time, or contingency, is fixed for the payment; 3. The Secretary of the Treasury is to sell and assign the certificates, limited to a ratable proportion of each, when necessary to meet appropriations made by Congress; 4. The certificates so assigned are to bear an interest of five per cent., payable half yearly; 5. To bear no interest before assignment; 6. The principal to be payable at the pleasure of the State.

"This, Mr. President, is the enactment; and what is such an enactment? Sir, I will tell you what it is. It is, in name, a deposit; in form, a loan; in essence and design, a distribution. Names cannot alter things; and it is as idle to call a gift a deposit, as it would be to call a stab of the dagger a kiss of the lips. It is a distribution of the revenues, under the name of a deposit, and under the form of a loan. It is known to be so, and is intended to be so; and all this verbiage about a deposit is nothing but the device and contrivance of those who have been for years endeavoring to distribute the revenues, sometimes by the land bill, sometimes by direct propositions, and sometimes by proposed amendments to the constitution. Finding all these modes of accomplishing the object met and frustrated by the constitution, they fall upon this invention of a deposit, and exult in the success of an old scheme under a new name. That it is no deposit, but a free gift, and a regular distribution, is clear and demonstrable, not only from the avowed principles, declared intentions, and systematic purposes of those who conduct the bill, but also from the means devised to effect their object. Names are nothing. The thing done gives character to the transaction; and the imposition of an erroneous name cannot change that character. This is no deposit. It has no feature, no attribute, no characteristic no quality of a deposit. A deposit is a trust requiring the consent of two parties, leaving to one the rights of ownership, and imposing on the other the duties of trustee. The depositor retains the right of property, and reserves the privilege of resumption; the depositary is bound to restore. But here the right of property is parted with; the privilege of resumption is surrendered; the obligation to render back is not imposed. On the contrary, our money is

put where we cannot reach it. Our treasury warrant cannot pursue it. The States are to keep the money, free of interest, until is is needed to meet appropriations; and then the Secretary of the Treasury is—to do what?—call upon the State? No! but to sell and assign the certificate; and the State is to pay the assignee an interest half yearly, and the principal when it pleases. Now, these appropriations will never be made. The members of Congress are not yet born—the race of representatives is not yet known—who will vote appropriations for national objects, to be paid out of their own State treasuries. Sooner will the tariff be revived, or the price of public land be raised. Sooner will the assignability of the certificate be repealed by law. The contingency will never arrive, on which the Secretary is to assign: so the deposit will stand as a loan for ever, without interest. At the end of some years, the nominal transaction will be rescinded; the certificates will all be cancelled by one general, unanimous, harmonious vote in Congress. The disguise of a deposit, like the mask after a play, will be thrown aside; and the delivery of the money will turn out to be, what it is now intended to be, a gift from the beginning. This will be the end of the first chapter. And now, how unbecoming in the Senate to practise this indirection, and to do by a false name what cannot be done by its true one. The constitution, by the acknowledgment of many who conduct this bill, will not admit of a distribution of the revenues. Not further back than the last session, and again at the commencement of the present session, a proposition was made to amend the constitution, to permit this identical distribution to be made. That proposition is now upon our calendar, for the action of Congress. All at once, it is discovered that a change of names will do as well as a change of the constitution. Strike out the word 'distribute,' and insert the word 'deposit;' and, incontinently, the impediment is removed: the constitution difficulty is surmounted; the division of the money can be made. This, at least, is quick work. It looks magical, though not the exploit of the magician. It commits nobody, though not the invention of the non-committal school. After all, it must be admitted to be a very compendious mode of amending the constitution, and such a one as the framers of that instrument never happened to think of. Is this fancy, or is it fact? Are we legislating, or amusing ourselves with phantasmagoria? Can we forget that we now have upon the calendar a proposition to amend the constitution, to effect this very distribution, and that the only difference between that resolution and this thirteenth section, is in substituting the word 'deposit' for the word 'distribute?'

"Having shown this pretended deposit to be a distribution in disguise, and to be a mere evasion of the constitution, Mr. B. proceeded to examine its effects, and to trace its ruinous consequences upon the federal government and the States. It is brought forward as a temporary measure, as a single operation, as a thing to be done but once; but what career, either for good or for evil, ever stopped with the first step? It is the first step which costs the difficulty; that taken, the second becomes easy, and repetition habitual. Let this distribution, in this disguise, take effect; and future distribution will be common and regular. Every presidential election will bring them, and larger each time; as the consular elections in Rome, commencing with distributions of grain from the public granaries, went on to the exhibitions of games and shows, the remission of debts, largesses in money, lands, and provisions; until the rival candidates openly bid against each other, and the diadem of empire was put up at auction, and knocked down to the last and highest bidder. The purity of elections may not yet be affected in our young and vigorous country; but how long will it be before voters will look to the candidates for the magnitude of their distributions, instead of looking to them for the qualifications which the presidential office requires?

"The bad consequences of this distribution of money to the States are palpable and frightful. It is complicating the federal and State systems, and multiplying their points of contact and hazards of collision. Take it as ostensibly presented, that of a deposit or loan, to be repaid at some future time; then it is establishing the relation of debtor and creditor between them: a relation critical between friends, embarrassing between a State and its citizens; and eminently dangerous between confederate States and their common head. It is a relation always deprecated in our federal system. The land credit system was abolished by Congress, fifteen years ago, to get rid of the relation of debtor and creditor between the federal government and the citizens of the States; and seven or eight millions of debt, principal and interest, was then surrendered. The collection of a large debt from numerous individual debtors, was found to be almost impossible. How much worse if the State itself becomes the debtor! and more, if all the States become indebted together! Any attempt to collect the debt would be attended, first with ill blood, then with cancellation. It must be the representatives of the States who are to enforce the collection of the debt. This they would not do. They would stand together against the creditor. No member of Congress could vote to tax his State to raise money for the general purposes of the confederacy. No one could vote an appropriation which was to become a charge on his own State treasury. Taxation would first be resorted to, and the tariff and the public lands would become the fountain of supply to the federal government. Taken as a real transaction—as a deposit with the States, or a loan to the States—as this measure professes to be, and it is fraught with consequences adverse to the harmony of the federal system, and fraught with new burdens upon the

customs, and upon the lands; taken as a fiction to avoid the constitution, as a John Doe and Richard Roe invention to convey a gift under the name of a deposit, and to effect a distribution under the disguise of a loan, and it is an artifice which makes derision of the constitution, lets down the Senate from its lofty station; and provides a facile way for doing any thing that any Congress may choose to do in all time to come. It is only to depose one word and instal another—it is merely to change a name—and the frowning constitution immediately smiles on the late forbidden attempt.

"To the federal government the consequences of these distributions must be deplorable and destructive. It must be remitted to the helpless condition of the old confederacy, depending for its supplies upon the voluntary contributions of the States. Worse than depending upon the voluntary contributions, it will be left to the gratuitous leavings, to the eleemosynary crumbs, which remain upon the table after the feast of the States is over. God grant they may not prove to be the feasts of the Lapithæ and Centaurs! But the States will be served first; and what remains may go to the objects of common defence and national concern for which the confederacy was framed, and for which the power of raising money was confided to Congress. The distribution bills will be passed first, and the appropriation bills afterwards; and every appropriation will be cut down to the lowest point, and kept off to the last moment. To stave off as long as possible, to reduce as low as possible, to defeat whenever possible, will be the tactics of federal legislation; and when at last some object of national expenditure has miraculously run the gauntlet of all these assaults, and escaped the perils of these multiplied dangers, behold the enemy still ahead, and the recapture which awaits the devoted appropriation, in the shape of an unexpended balance, on the first day of January then next ensuing. Thus it is already; distribution has occupied us all the session. A proposition to amend the constitution, to enable us to make the division, was brought in in the first month of the session. The land bill followed, and engrossed months, to the exclusion of national defence. Then came the deposit scheme, which absorbs the remainder of the session. For nearly seven months we have been occupied with distribution, and the Senate has actually passed two bills to effect the same object, and to divide the same identical money. Two bills to divide money, while one bill cannot be got through for the great objects of national defence named in the constitution. We are now near the end of the seventh month of the session. The day named by the Senate for the termination of the session is long passed by; the day fixed by the two Houses is close at hand. The year is half gone, and the season for labor largely lost; yet what is the state of the general, national, and most essential appropriations? Not a shilling is yet voted for fortifications; not a shilling for the ordnance; nothing for filling the empty ranks of the skeleton army; nothing for the new Indian treaties; nothing for the continuation of the Cumberland road; nothing for rebuilding the burnt-down Treasury; nothing for the custom-house in New Orleans; nothing for extinguishing the rights of private corporators in the Louisville canal, and making that great thoroughfare free to the commerce of the West; nothing for the western armory, and arsenals in the States which have none; nothing for the extension of the circuit court system to the new States of the West and Southwest; nothing for improving the mint machinery; nothing for keeping the mints regularly supplied with metals for coining; nothing for the new marine hospitals; nothing for the expenses of the visitors now gone to the Military Academy; nothing for the chain of posts and the military road along the Western and Northwestern frontier. All these, and a long list of other objects, remain without a cent to this day; and those who have kept them off now coolly turn upon us, and say the money cannot be expended if appropriated, and that, on the first of January, it must fall into the surplus fund to be divided. Of the bills passed, many of the most essential character have been delayed for months, to the great injury of individuals and of the public service. Clerks and salaried officers have been borrowing money at usury to support their families, while we, wholly absorbed with dividing surpluses, were withholding from them their stipulated wages. Laborers at Harper's Ferry Armory have been without money to go to market for their families, and some have lived three weeks without meat, because we must attend to the distribution bills before we can attend to the pay bills. Disbursing officers have raised money on their own account, to supply the want of appropriations. Even the annual Indian Annuity Bill has but just got through; the Indians even—the poor Indians, as they were wont to be called—even they have had to wait, in want and misery, for the annual stipends solemnly guarantied by treaties. All this has already taken place under the deplorable influence of the distribution spirit.

"The progress which the distribution spirit has made in advancing beyond its own pretensions, is a striking feature in the history of the case, and ominous of what may be expected from its future exactions. Originally the proposition was to divide the surplus. It was the surplus, and nothing but the surplus, which was to be taken; that bona fide and inevitable surplus which remained after all the defences were provided for, and all needed appropriations fully made. Now the defences are postponed and decried; the needful appropriations are rejected, stinted, and deferred, till they cannot be used; and, instead of the surplus, it is the integral revenue, it is the money in the Treasury, it is the money appropriated by law, which is to be

seized upon and divided out. It is the unexpended balances which are now the object of all desire and the prize of meditated distribution. The word surplus is not in the bill! that word, which has figured in so many speeches, which has been the subject of so much speculation, which has been the cause of so much delusion in the public mind, and of so much excited hope; that word is not in the bill! It is carefully, studiously, systematically excluded, and a form of expression is adopted to cover all the money in the Treasury, a small sum excepted, although appropriated by law to the most sacred and necessary objects. A recapture of the appropriated money is intended; and thus the very identical money which we appropriate at this session is to be seized upon on the first day of January, torn away from the objects to which it was dedicated, and absorbed in the fund for general distribution. And why? because the cormorant appetite of distribution grows as it feeds, and becomes more ravenous as it gorges. It set out for the surplus; now it takes the unexpended balances, save five millions; next year it will take all. But it is sufficient to contemplate the thing as it is; it is sufficient to contemplate this bill as seizing upon the unexpended balances on the first day of January, regardless of the objects to which they are appropriated; and to witness its effect upon the laws, the policy, and the existence of the federal government.

"Such, then, is the progress of the distribution spirit; a cormorant appetite, growing as it feeds, ravening as it gorges; seizing the appropriated moneys, and leaving the federal government to starve upon crumbs, and to die of inanition. But this appetite is not the sole cause for this seizure. There is another reason for it, connected with the movements in this chamber, and founded in the deep-seated law of self-preservation. For six months the public mind has been stimulated with the story of sixty millions of surplus money in the Treasury; and two months ago, the grave Senate of the United States carried the rash joke of that illusory asseveration so far as to pass a bill to commence the distribution of that vast sum. It was the land bill which was to do it, commencing its swelling dividends on the 1st day of July, dealing them out every ninety days, and completing the splendid distribution of prizes, in the sixty-four million lottery, in eighteen months from the commencement of the drawing. It was two months ago that we passed this bill; and all attempts then made to convince the people that they were deluded, were vain and useless. Sixty-four millions they were promised, sixty-four millions they were to have, sixty-four millions they began to want; and slates and pencils were just as busy then in figuring out the dividends of the sixty-four millions, to begin on the 1st of July, as they now are in figuring out the dividends under the forty, fifty, and sixty millions, which are to begin on the 1st of January next. And now behold the end of the first chapter. The 1st of July is come, but the sixty-four millions are not in the Treasury! It is not there; and any attempt to commence the distribution of that sum, according to the terms of the land bill, would bankrupt the Treasury, stop the government, and cause Congress to be called together, to levy taxes or make loans. So much for the land bill, which two months ago received all the praises which are now bestowed upon the deposit bill. So the drawing had to be postponed, the performance had to be adjourned, and the 1st of January was substituted for the 1st of July. This gives six months to go upon, and defers the catastrophe of the mountain in labor until the presidential election is over. Still the first of January must come; and the ridicule would be too great, if there was nothing, or next to nothing, to divide. And nothing, or next to nothing, there would be, if the appropriations were fairly made, and made in time, and if nothing but a surplus was left to divide. There would be no more in the deposit bank, in that event, than has usually been in the Bank of the United States—say ten, or twelve, or fourteen, or sixteen millions; and from which, in the hands of a single bank, none of those dangers to the country were then seen which are now discovered in like sums in three dozen unconnected and independent banks. Even after all the delays and reductions in the appropriations, the surplus will now be but a trifle—such a trifle as must expose to ridicule, or something worse, all those who have tantalized the public with the expectation of forty, fifty, or sixty millions to divide. To avoid this fate, and to make up something for distribution, then, the unexpended balances have been fallen upon; the law of 1795 is nullified; the fiscal year is changed; the policy of the government subverted; reason, justice, propriety outraged; all contracts, labor, service, salaries cut off, interrupted, or reduced; appropriations recaptured, and the government paralyzed. Sir, the people are deceived; they are made to believe that a surplus only, an unavoidable surplus, is to be divided, when the fact is that appropriated moneys are to be seized.

"Sir, I am opposed to the whole policy of this measure. I am opposed to it as going to sap the foundations of the Federal Government, and to undo the constitution, and that by evasion, in the very point for which the constitution was made. What is that point? A Treasury! a Treasury! a Treasury of its own, unconnected with, and independent of the States. It was for this that wise and patriotic men wrote, and spoke, and prayed for the fourteen years that intervened from the declaration of independence, in 1776, to the formation of the constitution in 1789. It was for this that so many appeals were made, so many efforts exerted, so many fruitless attempts so long repeated, to obtain from the States the power of raising revenue from imports. It was for this

that the convention of 1787 met, and but for this they never would have met. The formation of a federal treasury, unconnected with the States, and indepenent of the States, was the cause of the meeting of that convention; it was the great object of its labors; it was the point to which all its exertions tended, and it was the point at which failure would have been the failure of the whole object of the meeting, of the whole frame of the general government, and of the whole design of the constitution. With infinite labor, pains, and difficulty, they succeeded in erecting the edifice of the federal treasury; we, not builders, but destroyers, "architects of ruin," undo in a night what they accomplished in many years. We expunge the federal treasury; we throw the federal government back upon States for supplies; we unhinge and undo the constitution; and we effect our purpose by an artifice which derides, mocks, ridicules that sacred instrument, and opens the way to its perpetual evasion by every paltry performer that is able to dethrone one word, and exalt another in its place.

"I object to the time for another reason. There is no necessity to act at all upon this subject, at this session of Congress. The distribution is not to take effect until after we are in session again, and when the true state of the treasury shall be known. Its true state cannot be known now; but enough is known to make it questionable whether there will be any surplus, requiring a specific disposition, over and beyond the wants of the country. Many appropriations are yet behind; two Indian wars are yet to be finished; when the wars are over, the vanquished Indians are to be removed to the West; and when there, either the Federal Government or the States must raise a force to protect the people from them. Twenty-five thousand Creeks, seven thousand Seminoles, eighteen thousand Cherokees, and others, making a totality of seventy-two thousand, are to be removed; and the expenses of removal, and the year's subsistence afterwards, is close upon seventy dollars per head. It is a problem whether there will be any surplus worth disposing of. The surplus party themselves admit there will be a disappointment unless they go beyond the surplus, and seize the appropriated moneys. The Senator from New-York [Mr. Wright], has made an exposition, as candid and perspicuous as it is patriotic and unanswerable, showing that there will be an excess of appropriations over the money in the treasury on the day that we adjourn; and that we shall have to depend upon the accruing revenue of the remainder of the year to meet the demands which we authorize. This is the state of the surplus question: problematical, debatable; the weight of the evidence and the strength of the argument entirely against it; time enough to ascertain the truth, and yet a determination to reject all evidence, refuse all time, rush on to the object, and divide the money, cost what it may to the constitution, the government, the good of the States, and the purity of elections. The catastrophe of the land bill project ought certainly to be a warning to us. Two months ago it was pushed through, as the only means of saving the country, as the blessed act which was to save the republic. It was to commence on the first day of July its magnificent operations of distributing sixty four millions; now it lies a corpse in the House of Representatives, a monument of haste and folly, its very authors endeavoring to supersede it by another measure, because it could not take effect without ruining the country; and, what is equally important to them, ruining themselves.

"Admitting that the year produces more revenue than is wanting, is it wise, is it statesmanlike, is it consonant with our experience, to take fright at the event, and throw the money away? Did we not have forty millions of income in the year 1817? and did we not have an empty treasury in 1819? Instead of taking fright and throwing the money away, the statesman should look into the cause of things; he should take for his motto the prayer of Virgil: *Cognoscere causa rerum.* Let me know the cause of things; and, learning this cause, act accordingly. If the redundant supply is accidental and transient, it will quickly correct itself; if founded in laws, alter them. This is the part not merely of wisdom, but of common sense: it was the conduct of 1817, when the excessive supply was seen to be the effect of transient causes—termination of the war and efflorescence of the paper system—and left to correct itself, which it did in two years. It should be the conduct now, when the excessive income is seen to be the effect of the laws and the paper system combined, and when legislation or regulation is necessary to correct it. Reduction of the tariff; reduction of the price of land to actual settlers; rejection of bank paper from universal receivability for public dues; these are the remedies. After all, the whole evil may be found in a single cause, and the whole remedy may be seen in a single measure. The public lands are exchangeable for paper. Seven hundred and fifty machines are at work striking off paper; that paper is performing the grand rounds, from the banks to the public lands, and from the lands to the banks. Every body, especially a public man, may take as much as his trunks can carry. The public domain is changing into paper; the public treasury is filling up with paper; the new States are deluged with paper; the currency is ruining with paper; farmers, settlers, cultivators, are outbid, deprived of their selected homes, or made to pay double for them, by public men loaded, not like Philip's ass, with bags of gold, but like bank advocates, with bales of paper. Sir, the evil is in the unbridled state of the paper system, and in the unchecked receivability of paper for federal dues. Here is

the evil. Banks are our masters; not one, but seven hundred and fifty! and this splendid federal Congress, like a chained and chastised slave, lies helpless and powerless at their feet.

"Sir, I can see nothing but evil, turn on which side I may, from this fatal scheme of dividing money; not surplus money, but appropriated funds; not by an amendment, but by a derisory evasion of the constitution. Where is it to end? History shows us that those who begin revolutions never end them; that those who commence innovations never limit them. Here is a great innovation, constituting in reality—not in figure of speech, but in reality—a revolution in the form of our government. We set out to divide the surplus; we are now dividing the appropriated funds. To prevent all appropriations except to the powerful States, will be the next step; and the small States, in self-defence, must oppose all appropriations, and go for a division of the whole. They will have to stand together in the Senate, and oppose all appropriations. It will not do for the large States to take all the appropriations first, and the bulk of the distribution afterwards; and there will be no way to prevent it but to refuse all appropriations, divide out the money among the States, and let each State lay it out for itself. A new surplus party will supersede the present surplus party, as successive factions supersede each other in chaotic revolutions. They will make Congress the *quæstor* of provinces, to collect money for the States to administer. This will be their argument: the States know best what they need, and can lay out the money to the best advantage, and to suit themselves. One State will want roads and no canals; another canals and no roads; one will want forts, another troops; one wants ships, another steamcars; one wants high schools, another low schools; one is for the useful arts, another is for the fine arts, for lyceums, athenæums, museums, arts, statuary, painting, music; and the paper State will want all for banks. Thus will things go on, and Congress will have no appropriation to make, except to the President, and his head clerks, and their under clerks. Even our own pay, like it was under the confederation, may be remitted to our own States. The eight dollars a day may be voted to them, and supported by the argument that they can get better men for four dollars a day; and so save half the money, and have the work better done. Such is the progress in this road to ruin. Sir, I say of this measure, as I said of its progenitor, the land bill: if I could be willing to let evil pass, that good might come of it, I should be willing to let this bill pass. A recoil, a reaction, a revulsion must take place. This confederacy cannot go to ruin. This Union has a place in the hearts of the people which will save it from nullification in disguise, as well as from nullification in arms. One word of myself. It is now ten years since schemes of distribution were broached upon this floor. They began with a senator from New Jersey, now Secretary of the navy (Mr. Dickerson). They were denounced by many, for their unconstitutionality, their corrupting tendencies, and their fatal effects upon the federal and State governments. I took my position then, have stood upon it during all the modifications of the original scheme; and continue standing upon it now. My answer then was, pay the public debt and reduce the taxes; my answer now is, provide for the public defences, reduce the taxes, and bridle the paper system. On this ground I have stood—on this I stand; and never did I feel more satisfaction and more exultation in my vote, when triumphant in numbers, than I now do in a minority of six."

The bill went to the House, and was concurred in by a large majority—one hundred and fifty-five to thirty-eight—although, under the name of distribution, there was no chance for it to pass that House. Deeming the opposition of this small minority courageous as well as meritorious, and deserving to be held in honorable remembrance, their names are here set down; to wit:

Messrs. Michael W. Ash, James M. H. Beale, Benning M. Bean, Andrew Beaumont, John W. Brown, Robert Burns, John F. H. Claiborne, Walter Coles, Samuel Cushman, George C. Dromgoole, John Fairfield, William K. Fuller, Ransom H. Gillet, Joseph Hall, Thomas L. Hamer, Leonard Jarvis, Cave Johnson, Gerrit Y. Lansing, Gideon Lee, George Loyall, Abijah Mann, jr., John Y. Mason, James J. McKay, John McKeon, Isaac McKim, Gorham Parks, Franklin Pierce, Henry L. Pinckney, John Roane, James Rogers, Nicholas Sickles, William Taylor, Francis Thomas, Joel Turrill, Aaron Vanderpoel, Aaron Ward, Daniel Wardwell, Henry A. Wise.

The bill passed the House, and was approved by the President, but with a repugnance of feeling, and a recoil of judgment, which it required great efforts of friends to overcome; and with a regret for it afterwards which he often and publicly expressed. It was a grief that his name was seen to such an act. It was a most unfortunate act, a plain evasion of the constitution for a bad purpose—soon gave a sad overthrow to the democracy—and disappointed every calculation made upon it. Politically, it was no advantage to its numerous and emulous supporters—of no disservice to its few determined opponents—only four in number, in the Senate, the two senators from Mississippi voting against it, for reasons found in the constitution of their

State. To the States, it was of no advantage, raising expectations which were not fulfilled, and upon which many of them acted as realities, and commenced enterprises to which they were inadequate. It was understood that some of Mr. Van Buren's friends favored the President's approval, and recommended him to sign it—induced by the supposed effect which its rejection might have on the democratic party in the election. The opponents of the bill did not visit the President to give him their opinions, nor had he heard their arguments. If they had seen him, their opinions concurring with his own feelings and judgment, his conduct might have been different, and the approval of the act withheld. It might not have prevented the act from becoming a law, as two thirds in each House might have been found to support it; but it would have deprived the bill of the odor of his name, and saved himself from subsequent regrets. In a party point of view, it was the commencement of calamities, being an efficient cause in that general suspension of specie payments, which quickly occurred, and brought so much embarrassment on the Van Buren administration, ending in the great democratic defeat of 1840. But of this hereafter.

CHAPTER CXLIII.

RECHARTER OF THE DISTRICT BANKS—SPEECH OF MR. BENTON: THE PARTS OF LOCAL AND TEMPORARY INTEREST OMITTED.

"Mr. Benton rose to oppose the passage of the bill, notwithstanding it was at the third reading, and that it was not usual to continue opposition, which seemed to be useless, at that late stage. But there were occasions when he never took such things into calculation, and when he continued to resist pernicious measures, regardless of common usages, as long as the forms of parliamentary proceeding would allow him to go on. Thus he had acted at the passing of the United States Bank charter, in 1832; thus he did at the passing of the resolution against President Jackson, in 1834; and thus he did at the passing of the famous land bill, at the present session. He had continued to speak against all these measures, long after speaking seemed to be of any avail; and, far from regretting, he had reason to rejoice at the course that he had pursued. The event proved him to be right; for all these measures, though floated through this chamber upon the swelling wave of a resistless and impatient majority, had quickly run their brief career. Their day of triumph had been short. The bank charter perished at the first general election; the condemnatory resolution was received by the continent in a tempest of execration; and the land bill, that last hope of expiring party, has dropped an abortion from the Senate. It is dead even here, in this chamber, where it originated—where it was once so omnipotent that, to speak against it, was deemed by some to be an idle consumption of time, and by others to be an unparliamentary demonstration against the ascertained will of the House. Yet, that land bill is finished. That brief candle is out. The Senate has revoked that bill; has retracted, recanted, and sung its palinode over that unfortunate conception. It has sent out a committee—an extraordinary committee of nine—to devise some other scheme for dividing that same money which the land bill divides! and, in doing so, the Senate has authentically declared a change of opinion, and a revocation of its sentiments in favor of that bill. Thus it has happened, in recent and signal cases, that, by continuing the contest after the battle seemed to be lost, the battle was in fact gained; and so it may be again. These charters may yet be defeated; and whether they will be or not, is nothing to me. I believe them to be wrong—greatly, immeasurably wrong!—and shall continue to oppose them without regard to calculations, or consequences, until the rules of parliamentary proceeding shall put an end to the contest. Mr. B. said he had moved for a select committee, at the commencement of the session, to examine into the condition of these banks, and he had done so with no other object than to endeavor to provide some checks and guards for the security of the country against the abuses and excesses of the paper system. The select committee had not been raised. The standing Committee on the District of Columbia had been charged with the subject; and, seeing that they had made a report adverse to his opinions, and brought in a bill which he could not sanction, it would be his part to act upon the meagre materials which had been placed before the Sen-

ate and endeavor to accomplish as a member of that body, what could have been attempted, with better prospects of success, as a member of a committee which had had the management of the subject.

"Mr. B. said he had wished to have been on a select committee for the charter of these banks; he wished to have revived the idea of a bank without circulation, and to have disconnected the government from the banking of the district. He had failed in his attempt to raise such a committee; and, as an individual member of the Senate, he could now do no more than mention in debate the ideas which he would have wished to have ripened into legislation through the instrumentality of a committee.

"Mr. B. said he had demonstrated that no bank of circulation ought to be authorized in this district; and, he would add, that none to furnish currency, except of large notes, ought to be authorized any where; yet what are we doing? We are breeding six little corporations at a birth, to issue $2,250,000 of paper currency: and on what terms? No bonus; no tax on the capital; none on the circulation; no reduction of interest in lieu of bonus or tax; no specie but what the stockholders please to put in; and no liability on the part of the stockholders for a failure of these corporations to redeem their notes and pay their debts. This is what we are doing; and now let us see what burdens and taxes these six corporations will impose upon the business part of the community—the productive classes among which they are to be perpetuated. First, there is the support of these six corporation governments; for every bank must have a government, like a State or kingdom; and the persons who administer these corporation governments must be paid, and paid by the people, and that according to the rates fixed by themselves and not by the people. Each of these six banks must have its president, cashier, clerks, and messengers; its notary public to protest notes; and its attorney to bring suits. The aggregate salaries, fees, and perquisites, of all these officers of the six banks will be the first tax on the people. Next comes the profits to the stockholders. The nett profits of banks are usually eight to ten per cent. at present; the gross profits are several per cent. more; and the gross profits are what the people pay. Assuming the gross profits to be twelve per cent., and the annual levy upon the community will be about $270,000. The third loss to the community will be on the fluctuations of prices of labor and property, and the rise and fall of stocks, from the expansions and contractions of currency, produced by making money plenty or scarce, as it suits the interest of th bank managers. This item cannot be calculated and depends entirely upon the moderation and consciences of the Neptunes who preside over the flux and reflux of the paper ocean; and to whom all tides, whether of ebb or flow, and all conditions of the sea, whether of calm or storm, are equally welcome, equally auspicious, and equally productive. Then come three other heads of loss to the community, and of profit to the bank: loss of notes from wear and tear, counterfeits imposed upon the people for good notes, and good notes rejected by the banks for counterfeits; and then the loss to the holders from the stoppage and failure of banks, and the shaving in of notes and stocks. Such are the burdens and taxes to be imposed upon the people to give them a paper currency, when, if the paper currency were kept away, and only large notes used, as in France, they would have a gold and silver currency without paying a tax to any body for it, and without being subject to any of the frightful evils resulting from the paper system.

"Objecting to all banks of circulation, but not able to suppress them entirely, Mr. B. suggested some ameliorations in the charters proposed to be granted to render them less dangerous to the community. 1. The liability of the stockholders for all the debts of the institution, as in the Scottish banks. 2. The bank stock to be subject to taxation, like other property. 3. To issue or receive no note of less than twenty dollars. 4. The charters to be repealable at the will of Congress: and he gave reasons for each of these improvements; and first for the liability of the stockholders. He said:

"Reasons for this liability were strong and palpable. A man that owes should pay while he has property to pay with; and it is iniquitous and unjustifiable that a bank director, or stockholder, should riot in wealth while the business part of the community should hold the bank notes which they have put into circulation, and be able to get nothing for them after the bank had closed its doors. Such exemptions are con-

trary to the rights of the community, and one of the great causes of the failure of banks. A liability in the stockbrokers is one of the best securities which the public can have for the correct management and solvency of the institution. The famous Scottish banks, which, in upwards of one hundred years' operations, had neither once convulsed the country with contractions and expansions, nor once stopped payment, were constituted upon this principle. All the country banks in England, and all the bankers on the continent of Europe, were liable to a still greater degree; for in them each stockholder, or partner, was liable, individually, for the whole amount of the debts of the bank. The principle proposed to be incorporated in these charters strikes the just medium between the common law principle, which makes each partner liable for the whole debts of the firm; and the corporation principle in the United States, which absolves each from all liability, and leaves the penniless and soulless carcase of a defunct and eviscerated bank alone responsible to the community. Liability to the amount of the stock was an equitable principle, and with summary process for the recovery of the amounts of notes and deposits, and the invalidity of transfers of stock to avoid this liability, would be found a good remedy for a great evil. If the stockholders in the three banks which stopped payment in this city during the panic session had been thus liable, the notes would not have been shaved out of the hands of the holders; if the bank which stopped in Batimore at the same time, had been subject to this principle, the riots, which have afflicted that city in consequence of that stoppage, would not have taken place. Instead of these losses and riots, law and remedy would have prevailed; every stockholder would have been summoned before a justice of the peace—judgment granted against him on motion—for the amount held by the complainant; and so on, until all were paid, or he could plead that he had paid up the whole amount of his stock."

The evil of small notes he classed under three general heads: 1. The banishment of gold and silver. 2. Encouragement to counterfeiting. 3. Throwing the burthens and losses of the paper system upon the laboring and small-dealing part of the community, who have no share in the profits of banking, and should not be made to bear its losses. On these points, he said:

"The instinct of banks to sink their circulation to the lowest denomination of notes which can be forced upon the community, is a trait in the system universally proved to exist wherever banks of circulation have been permitted to give a currency to a country; and the effect of that instinct has always been to banish gold and silver. When the Bank of England was chartered, in the year 1694, it could issue no note less than £100 sterling; that amount was gradually reduced by the persevering efforts of the bank, to £50; then to £20; then to £15; then to £10; at last to £5; and finally to £2 and £1. Those last denominations were not reached until the year 1797, or until one hundred and three years after the institution of the bank; and as the several reductions in the size of the notes, and the consequent increase of paper currency took place, gold became more and more scarce; and with the issue of the one and two pound notes, it totally disappeared from the country.

"This effect was foretold by all political economists, and especially by Mr. Burke, then aged and retired from public life, who wrote from his retreat, to Mr. Canning, to say to Mr. Pitt, the Prime Minister, these prophetic words: 'If this bill for the one and two pounds is permitted to pass, we shall never see another guinea in England.' The bill did pass, and the prediction was fulfilled; for not another guinea, half guinea, or sovereign, was seen in England, for circulation, until the bill was repealed two and twenty years afterwards! After remaining nearly a quarter of a century without a gold circulation, England abolished her one and two pound notes, limited her paper currency to £5 sterling, required all Bank of England notes to be paid in gold, and allowed four years for the act to take effect. Before the four years were out, the Bank of England reported to Parliament that it was ready to begin gold payments; and commenced accordingly, and has continued them ever since.

"The encouragement of counterfeiting was the next great evil which Mr. B. pointed out as belonging to a small note currency; and of all the denominations of notes, he said those of one and two pounds in England (corresponding with fives and tens in the United States), were those to which the demoralizing business of counterfeiting was chiefly directed! They were the

chosen game of the forging depredator! and that, for the obvious reasons that fives and tens were small enough to pass currently among persons not much acquainted with bank paper, and large enough to afford some profit to compensate for the expense and labor of producing the counterfeit, and the risk of passing it. Below fives, the profits are too small for the labor and risk. Too many have to be forged and passed before an article of any value can be purchased; and the change to be got in silver, in passing one for a small article, is too little. Of twenty and upwards, though the profit is greater on passing them, yet the danger of detection is also greater. On account of its larger size, the note is not only more closely scrutinized before it is received, and the passer of it better remembered, but the circulation of them is more confined to business men and large dealers, and silver change will not be given for them in buying small articles. The fives and tens, then, in the United States, like the £1 and £2 in England, are the peculiar game of counterfeiters, and this is fully proved by the criminal statistics of the forgery department in both countries. According to returns made to the British Parliament for twenty-two years—from 1797 to 1819—the period in which the one and two pound notes were allowed to circulate, the whole number of prosecutions for counterfeiting, or passing counterfeit notes of the Bank of England, was 998: in that number there were 313 capital convictions; 530 inferior convictions; and 155 acquittals: and the sum of £249,900, near a million and a quarter of dollars, was expended by the bank in attending to prosecutions. Of this great number of prosecutions, the returns show that the mass of them were for offences connected with the one and two pound notes. The proportion may be distinctly seen in the number of counterfeit notes of different denominations detected at the Bank of England in a given period of time—from the 1st of January, 1812, to the 10th of April, 1818—being a period of six years and three months out of the twenty-two years that the one and two pound notes continued to circulate. The detections were, of one pound notes, the number of 107,238; of two pound notes, 17,787; of five pound notes, 5,826; of ten pound notes, 419; of twenty pound notes, 54. Of all above twenty pounds, 35. The proportion of ones and twos to the other sizes may be well seen in the tables for this brief period; but to have any idea of the mass of counterfeiting done upon those small notes, the whole period of twenty-two years must be considered, and the entire kingdom of Great Britain taken in; for the list only includes the number of counterfeits detected at the counter of the bank; a place to which the guilty never carry their forgeries, and to which a portion only of those circulating in and about London could be carried. The proportion of crime connected with the small notes is here shown to be enormously and frightfully great. The same results are found in the United States. Mr. B. had looked over the statistics of crime connected with the counterfeiting of bank notes in the United States, and found the ratio between the great and small notes to be about the same that it was in England. He had had recourse to the most authentic data—Bicknell's Counterfeit Detector—and there found the editions of counterfeit notes of the local or State banks, to be eight hundred and eighteen, of which seven hundred and fifty-six were of ten dollars and under; and sixty-two editions only were of twenty dollars and upwards. Of the Bank of the United States and its branches, he found eighty-two editions of fives; seventy-one editions of tens; twenty-six editions of twenties; and two editions of fifties; still showing that in the United States, as well as in England, on local banks as well as that of the United States, the course of counterfeiting was still the same; and that the whole stress of the crime fell upon the five and ten dollar notes in this country, and their corresponding classes, the one and two pound notes in England. Mr. B. also exhibited the pages of Bicknell's Counterfeit Detector, a pamphlet covered over column after column with its frightful lists, nearly all under twenty dollars; and he called upon the Senate in the sacred name of the morals of the country—in the name of virtue and morality—to endeavor to check the fountain of this crime, by stopping the issue of the description of notes on which it exerted nearly its whole force.

"Mr. B. could not quit the evils of the crime of counterfeiting in the United States without remarking that the difficulty of legal detection and punishment was so great, owing to the distance at which the counterfeits were circulated from the banks purporting to issue

them, and the still greater difficulty (in most cases impossible) of getting witnesses to attend in person, in States in which they do not reside, the counterfeiters all choosing to practise their crime and circulate their forgeries in States which do not contain the banks whose paper they are imitating. So difficult is it to obtain the attendance of witnesses in other States, that the crime of counterfeiting is almost practised with impunity. The notes under $20 feed and supply this crime; let them be stopped, and ninety-nine hundredths of this crime will stop with them.

"A third objection which Mr. B. urged against the notes under twenty dollars was, that nearly the whole evils of that part of the paper system fell upon the laboring and small dealing part of the community. Nearly all the counterfeits lodged in their hands, or were shaved out of their hands. When a bank failed, the mass of its circulation being in small notes, sunk upon their hands. The gain to the banks from the wear and tear of small notes, came out of them; the loss from the same cause, falling upon them. The ten or twelve per cent. annual profit for furnishing a currency in place of gold and silver (for which no interest would be paid to the mint or the government), chiefly falls upon them; for the paper currency is chiefly under twenty dollars. These evils they almost exclusively bear, while they have, over and above all these, their full proportion of all the evils resulting from the expansions and contractions which are incessantly going on, totally destroying the standard of value, periodically convulsing the country; and in every cycle of five or six years making a lottery of all property, in which all the prizes are drawn by bank managers and their friends.

"He wished the basis of circulation throughout the country to be in hard money. Farmers, laborers, and market people, ought to receive their payments in hard money. They ought not to be put to the risk of receiving bank notes in all their small dealings. They are no judges of good or bad notes. Counterfeits are sure to fall upon their hands; and the whole business of counterfeiting was mainly directed to such notes as they handle—those under twenty dollars.

"Mr. B. said he here wished to fix the attention of those who were in favor of a respectable paper currency—a currency of respectable-sized notes of twenty dollars and upwards—on the great fact, that the larger the specie basis, the larger and safer would be the superstructure of paper which rested upon it; the smaller that specie basis, the smaller and more unsafe must be the paper which rested on it. The currency of England is $300,000,000, to wit: £8,000,000 sterling (near $40,000,000) in silver; £22,000,000 sterling (above $100,000,000) in gold; and about £30,000,000 sterling (near $150,000,000) in bank notes. The currency of the United States is difficult to be ascertained, from the multitude of banks, and the incessant ebb and flow of their issues; calculations vary; but all put the paper circulation at less than $100,000,000; and the proportion of specie and paper, at more than one half paper. This is agreed upon all hands, and is sufficient for the practical result, that an increase of our specie to $100,000,000, and the suppression of small notes, will give a larger total circulation than we now have, and a safer one. The total circulation may then be $200,000,000, in the proportions of half paper and half specie; and the specie, half gold and half silver. This would be an immense improvement upon our present condition, both in quantity and in quality; the paper part would become respectable from the suppression of notes under twenty dollars, which are of no profit except to the banks which issue them, and the counterfeiters who imitate them; the specie part would be equally improved by becoming one half gold. Mr. B. could not quit this important point, namely, the practicability of soon obtaining a specie currency of $100,000,000, and the one half gold, without giving other proofs to show the facility with which it has been every where done when attempted. He referred to our own history immediately after the Revolution, when the disappearance of paper money was instantly followed, as if by magic, by the appearance of gold and silver; to France, where the energy of the great Napoleon, then first consul, restored an abundant supply of gold and silver in one year; to England, where the acquisition of gold was at the rate of $24,000,000 per annum for four years after the notes under five pounds were ordered to be suppressed; and he referred with triumph to our own present history, when, in defiance of an immense and powerful political and moneyed combination

against gold, we will have acquired about $20,000,000 of that metal in the two concluding years of President Jackson's administration.

"Mr. B. took this occasion to express his regret that the true idea of banks seemed to be lost in this country, and that here we had but little conception of a bank, except as an issuer of currency. A bank of discount and deposit, in contradistinction to a bank of circulation, is hardly thought of in the United States; and it may be news to some bank projectors, who suppose that nothing can be done without banks to issue millions of paper, to learn that the great bankers in London and Paris, and other capitals of Europe, issue no paper; and, still more, it may be news to them to learn that Liverpool and Manchester, two cities which happen to do about as much business as a myriad of such cities as this our Washington put together, also happen to have no banks to issue currency for them. They use money and bills of exchange, and have banks of discount and deposit, but no banks of circulation. Mr. Gallatin, in his Essay upon Currency, thus speaks of them:

"'There are, however, even in England, where incorporated country banks issuing paper are as numerous, and have been attended with the same advantages, and the same evils, as our country banks, some extensive districts, highly industrious and prosperous, where no such bank does exist, and where that want is supplied by bills of exchange drawn on London. This is the case in Lancashire, which includes Liverpool and Manchester, and where such bills, drawn at ninety days after date, are indorsed by each successive holder, and circulate through numerous persons before they reach their ultimate destination, and are paid by the drawee.'

"Mr. B. greatly regretted that such banks as those in Liverpool and Manchester were not in vogue in the United States. They were the right kind of banks. They did great good, and were wholly free from mischief. They lent money; they kept money; they transferred credits on books; they bought and sold bills of exchange; and these bills, circulating through many hands, and indorsed by each, answered the purpose of large bank notes, without their dangers, and became stronger every time they were passed. To the banks it was a profitable business to sell them, because they got both exchange and interest. To the commercial community they were convenient, both as a remittance and as funds in hand. To the community they were entirely safe. Banks of discount and deposit in the United States, issuing no currency, and issuing no bank note except of $100 and upwards, and dealing in exchange, would be entitled to the favor and confidence of the people and of the federal government. Such banks only should be the depositories of the public moneys.

"It is the faculty of issuing paper currency which makes banks dangerous to the country, and the height to which this danger has risen in the United States, and the progress which it is making, should rouse and alarm the whole community. It is destroying all standard of value. It is subjecting the country to demoralizing and ruinous fluctuations of price. It is making a lottery of property, and making merchandise of money, which has to be bought by the ticket holders in the great lottery at two and three per cent. a month. It is equivalent to the destruction of weights and measures, and like buying and selling without counting, weighing, or measuring. It is the realization, in a different form, of the debasement and arbitrary alteration of the value of coins practised by the kings of Europe in former ages, and now by the Sultan of Turkey. It is extinguishing the idea of fixed, moderate, annual interest. Great duties are thus imposed upon the legislator; and the first of these duties is to revive and favor the class of banks of discount and deposit; banks to make loans, keep money, transfer credits on books, buy and sell exchange, deal in bullion; but to issue no paper. This class of banks should be revived and favored; and the United States could easily revive them by confiding to them the public deposits. The next great duty of the legislator is to limit the issues of banks of circulation, and make them indemnify the community in some little degree, by refunding, in annual taxes, some part of their undue gains.

"The progress of the banking business is alarming and deplorable in the United States. It is now computed that there are 750 banks and their branches in operation, all having authority to issue currency; and, what is worse, all that currency is receivable by the federal government. The quantity of chartered bank capital, as it is called, is estimated at near $800,000,000; the amount of this capital re-

ported by the banks to have been paid in is about $300,000,000; and the quantity of paper money which they are authorized by their charters to issue is about $750,000,000. How much of this is actually issued can never be known with any precision; for such are the fluctuations in the amount of a paper currency, flowing from 750 fountains, that the circulation of one day cannot be relied upon for the next. The amount of capital, reported to be paid in, is, however, well ascertained, and that is fixed at $300,000,000. This, upon its face, and without recourse to any other evidence, is proof that our banking system, as a whole, is unsolid and delusive, and a frightful imposition upon the people. Nothing but specie can form the capital of a bank; there are not above sixty or seventy millions of specie in the country, and, of that, the banks have not the one half. Thirty millions in specie is the extent; the remainder of the capital must have been made up of that undefinable material called 'specie funds,' or 'funds equivalent to specie,' the fallacy of which is established by the facts already stated, and which show that all the specie in the country put together is not sufficient to meet the one fifth part of these 'specie funds,' or 'funds equivalent to specie.' The equivalent, then, does not exist! credit alone exists; and any general attempt to realize these 'specie funds,' and turn them into specie, would explode the whole banking system, and cover the country with ruin. There may be some solid and substantial banks in the country, and undoubtedly there are better and worse among them; but as a whole—and it is in that point of view the community is interested—as a whole, the system is unsolid and delusive; and there is no safety for the country until great and radical reforms are effected.

"The burdens which these 750 banks impose upon the people were then briefly touched by Mr. B. It was a great field, which he had not time to explore, but which could not, in justice, be entirely passed by. First, there were the salaries and fees of 750 sets of bank officers: presidents, cashiers, clerks, messengers, notaries public to protest notes, and attorneys to sue on them; all these had salaries, and good salaries, paid by the people, though the people had no hand in fixing these salaries: next, the profits to the stockholders, which, at an average of ten per centum gross would give thirty millions of dollars, all levied upon the people; then came the profits to the brokers, first cousins to the bankers, for changing notes for money, or for other notes at par; then the gain to the banks and their friends on speculations in property, merchandise, produce, and stocks, during the periodical visitations of the expansions and contractions of the currency; then the gain from the wear and tear of notes, which is so much loss to the people; and, finally, the great chapter of counterfeiting which, without being profitable to the bank, is a great burden to the people, on whose hands all the counterfeits sink. The amount of these burdens he could not compute; but there was one item about which there was no dispute—the salaries to the officers and the profits to the stockholders—and this presented an array of names more numerous, and an amount of money more excessive, than was to be found in the 'Blue Book,' with the Army and Navy Register inclusive.

"Mr. B. said this was a faint sketch of the burdens of the banking system as carried on in the United States, where every bank is a coiner of paper currency, and where every town, in some States, must have its banks of circulation, while such cities as Liverpool and Manchester have no such banks, and where the paper money of all these machines receive wings to fly over the whole continent, and to infest the whole land, from their universal receivability by the federal government in payment of all dues at their custom-houses, land-offices, post-offices, and by all the district attorneys, marshals, and clerks, employed under the federal judiciary. The improvidence of the States, in chartering such institutions, is great and deplorable; but their error was trifling, compared to the improvidence of the federal government in taking the paper coinage of all these banks for the currency of the federal government, maugre that clause in the constitution which recognizes nothing but gold and silver for currency, and which was intended for ever to defend and preserve this Union from the evils of paper money.

"Mr. B. averred, with a perfect knowledge of the fact, that the banking system of the United States was on a worse footing than it was in any country upon the face of the earth; and that, in addition to its deep and dangerous defects, it was also the most expensive and burdensome, and gave the most undue advantages to one part

of the community over another. He had no doubt but that this banking system was more burdensome to the free citizens of the United States than ever the feudal system was to the villeins, and serfs, and peasants of Europe. And what did they get in return for this vast burden? A pestiferous currency of small paper! when they might have a gold currency without paying interest, or suffering losses, if their banks, like those in Liverpool and Manchester, issued no currency except as bills of exchange; or, like the Bank of France, issued no notes but those of 500 and 1,000 francs (say $100 and $500); or even, like the Bank of England, issued no note under £5 sterling, and payable in gold. And with how much real capital is this banking system, so burdensome to the people of the United States, carried on? About $30,000,000! Yes; on about $30,000,000 of specie rests the $300,000,000 paid in, and on which the community are paying interest, and giving profits to bankers, and blindly yielding their faith and confidence, as if the whole $300,000,000 was a solid bed of gold and silver, instead of being, as it is, one tenth part specie, and nine tenths paper credit!"

Other senators spoke against the recharter of these banks, without the amelioration of their charters which the public welfare required; but without effect. The amendments were all rejected, and the bill passed for the recharter of the whole six by a large vote—26 to 14. The yeas and nays were:

YEAS.—Messrs. Black, Buchanan, Calhoun, Clay, Crittenden, Cuthbert, Davis, Ewing of Ohio, Goldsborough, Hendricks, Hubbard, Kent, King of Alabama, Knight, Leigh, Naudain, Nicholas, Porter, Prentiss, Rives, Southard, Swift, Tallmadge, Tomlinson, Walker, Webster.

NAYS.—Messrs. Benton, Ewing of Illinois, King of Georgia, Linn, McKean, Mangum, Morris, Niles, Robinson, Ruggles, Shepley, Wall, White, Wright.

CHAPTER CXLIV.

INDEPENDENCE OF TEXAS.

DURING several months memorials had been coming in from public meetings in different cities in favor of acknowledging the independence of Texas—the public feeling in behalf of the people of that small revolted province, strong from the beginning of the contest, now inflamed into rage from the massacres of the Alamo and of Goliad. Towards the middle of May news of the victory of San Jacinto arrived at Washington. Public feeling no longer knew any bounds. The people were exalted—Congress not less so—and a feeling for the acknowledgment of Texian independence, if not universal, almost general. The sixteenth of May—the first sitting of the Senate after this great news—Mr. Mangum, of North Carolina, presented the proceedings of a public meeting in Burke county, of that State, praying Congress to acknowledge the independence of the young republic. Mr. Preston said: "The effects of that victory had opened up a curtain to a most magnificent scene. This invader had come at the head of his forces, urged on by no ordinary impulse—by an infuriate fanaticism—by a superstitious catholicism, goaded on by a miserable priesthood, against that invincible Anglo-Saxon race, the van of which now approaches the *del Norte*. It was at once a war of religion and of liberty. And when that noble race engaged in a war, victory was sure to perch upon their standard. This was not merely the retribution of the cruel war upon the Alamo, but that tide which was swollen by this extraordinary victory would roll on; and it was not in the spirit of prophecy to say where it would stop." Mr. Walker, of Mississippi, said:

"He had, upon the 22d of April last, called the attention of the Senate to the struggle in Texas, and suggested the reservation of any surplus that might remain in the treasury, for the purpose of acquiring Texas from whatever government might remain the government *de facto* of that country. At that period (said Mr. W.) no allusion had been made, he believed, by any one in either House of Congress to the situation of affairs in Texas. And now (said Mr. W.), upon the very day that he had called the attention of the Senate to this subject, it appeared that Santa Anna had been captured, and his army overthrown. Mr. W. said he had never doubted this result. When on the 22d of April last, resolutions were introduced before the Senate by the senator from Ohio (Mr. Morris), requesting Congress to recognize the independence of Texas, he (Mr. W.) had opposed laying these resolutions on the table, and advocated their reference to a committee of the Senate. Mr. W. said he had addressed the Senate then under very different circumstances from those which now existed. The cries of

the expiring prisoners at the Alamo were then resounding in our ears; the victorious usurper was advancing onward with his exterminating warfare, and, in the minds of many, all was gloom and despondency; but Mr. W. said that the published report of our proceedings demonstrated that he did not for a moment despond; that his confidence in the rifle of the West was firm and unshaken; and that he had then declared that the sun was not more certain to set in the western horizon, than that Texas would maintain her independence; and this sentiment he had taken occasion to repeat in the debate on this subject in the Senate on the 9th of May last. Mr. W. said that what was then prediction was now reality; and his heart beat high, and his pulse throbbed with delight, in contemplating this triumph of liberty. Sir (said Mr. W.), the people of the valley of the Mississippi never could have permitted Santa Ana and his myrmidons to retain the dominion of Texas."

Mr. Walker afterwards moved the reference of all the memorials in relation to Texas to the Committee on Foreign Relations. If the accounts received from Texas had been official (for as yet there were nothing but newspaper accounts of the great victory), he would have moved for the immediate recognition of the Texian independence. Being unofficial, he could only move the reference to the committee in the expectation that they would investigate the facts and bring the subject before the Senate in a suitable form for action. Mr. Webster said:

"That if the people of Texas had established a government *de facto*, it was undoubtedly the duty of this government to acknowledge their independence. The time and manner of doing so, however, were all matters proper for grave and mature consideration. He should have been better satisfied, had this matter not been moved again till all the evidence had been collected, and until they had received official information of the important events that had taken place in Texas. As this proceeding had been moved by a member of the administration party, he felt himself bound to understand that the Executive was not opposed to take the first steps now, and that in his opinion this proceeding was not dangerous or premature. Mr. W. was of opinion that it would be best not to act with precipitation. If this information was true, they would doubtless before long hear from Texas herself; for as soon as she felt that she was a country, and had a country, she would naturally present her claims to her neighbors, to be recognized as an independent nation. He did not say that it would be necessary to wait for this event, but he thought it would be discreet to do so. He would be one of the first to acknowledge the independence of Texas, on reasonable proof that she had established a government. There were views connected with Texas which he would not now present, as it would be premature to do so; but he would observe that he had received some information from a respectable source, which turned his attention to the very significant expression used by Mr. Monroe in his message of 1822, that no European Power should ever be permitted to establish a colony on the American continent. He had no doubt that attempts would be made by some European government to obtain a cession of Texas from the government of Mexico."

Mr. King, of Alabama, counselled moderation and deliberation, although he was aware that in the present excited feeling in relation to Texas, every prudent and cautious course would be misunderstood, and a proper reserve be probably construed into hostility to Texian independence: but he would, so long as he remained a member on that floor, be regardless of every personal consideration, and place himself in opposition to all measures which he conceived were calculated to detract from the exalted character of this country for good faith, and for undeviating adherence to all its treaty stipulations. He then went on to say:

"He knew not whether the information received of the extraordinary successes of the Texans was to be relied on or not; he sincerely hoped it might prove true; no man here felt a deeper detestation of the bloodthirsty wretches who had cruelly butchered their defenceless prisoners, than he did; but, whether true or false, did it become wise, discreet, prudent men, bound by the strongest considerations to preserve the honor and faith of the country, to be hurried along by the effervescence of feeling, and at once abandon the course, and, he would say, the only true course, which this government has invariably, heretofore, pursued towards foreign powers? We have uniformly (said Mr. K.) recognized the existing governments—the governments *de facto;* we have not stopped to inquire whether it is a despotic or constitutional government; whether it is a republic or a despotism. All we ask is, does a government actually exist? and, having satisfied ourselves of that fact, we look no further, but recognize it as it is. It was on this principle (said Mr. K.)—this safe, this correct principle, that we recognized what was called the Republic of France, founded on the ruins of the old monarchy; then, the consular government; a little after, the imperial; and when that was crushed by a combination of all Europe, and that extraordinary man who wielded it was driven into exile, we again acknowledged the kingly government of the House of Bourbon, and now the constitutional King Louis Philippe of Orleans.

"Sir (said Mr. K.), we take things as they are; we ask not how governments are established—by what revolutions they are brought into existence. Let us see an independent government in Texas, and he would not be behind the senator from Mississippi nor the senator from South Carolina in pressing forward to its recognition, and establishing with it the most cordial and friendly relations."

Mr. Calhoun went beyond all other speakers, and advocated not only immediate recognition of the independence of Texas, but her simultaneous admission into the Union; was in favor of acting on both questions together, and at the present session; and saw an interest in the slave-holding States in preventing Texas from having the power to annoy them. And he said:

"He was of opinion that it would add more strength to the cause of Texas, to wait for a few days, until they received official confirmation of the victory and capture of Santa Anna, in order to obtain a more unanimous vote in favor of the recognition of Texas. He had been of but one opinion, from the beginning, that, so far from Mexico being able to reduce Texas, there was great danger of Mexico, herself, being conquered by the Texans. The result of one battle had placed the ruler of Mexico in the power of the Texans; and they were now able, either to dictate what terms they pleased to him, or to make terms with the opposition in Mexico. This extraordinary meeting had given a handful of brave men a most powerful control over the destinies of Mexico; he trusted they would use their victory with moderation. He had made up his mind not only to recognize the independence of Texas, but for her admission into this Union; and if the Texans managed their affairs prudently, they would soon be called upon to decide that question. No man could suppose for a moment that that country could ever come again under the dominion of Mexico; and he was of opinion that it was not for our interests that there should be an independent community between us and Mexico. There were powerful reasons why Texas should be a part of this Union. The Southern States, owning a slave population, were deeply interested in preventing that country from having the power to annoy them; and the navigating and manufacturing interests of the North and the East were equally interested in making it a part of this Union. He thought they would soon be called on to decide these questions; and when they did act on it, he was for acting on both together—for recognizing the independence of Texas, and for admitting her into the Union. Though he felt the deepest solicitude on this subject, he was for acting calmly, deliberately, and cautiously, but at the same time with decision and firmness. They should not violate their neutrality; but when they were once satisfied that Texas had established a government, they should do as they had done in all other similar cases: recognize her as an independent nation; and if her people, who were once citizens of this Republic, wished to come back to us, he would receive them with open arms. If events should go on as they had done, he could not but hope that, before the close of the present session of Congress, they would not only acknowledge the independence of Texas, but admit her into the Union. He hoped there would be no unnecessary delay, for, in such cases, delays were dangerous; but that they would act with unanimity, and act promptly."

The author of this View did not reply to Mr. Calhoun, being then on ill terms with him; but he saw in the speech much to be considered and remembered—the shadowings forth of coming events; the revelation of a new theatre for the slavery agitation; and a design to make the Texas question an element in the impending election. Mr. Calhoun had been one of Mr. Monroe's cabinet, at the time that Texas was ceded to Spain, and for reasons (as Mr. Monroe stated to General Jackson, in the private letter heretofore quoted) of internal policy and consideration; that is to say, to conciliate the free States, by amputating slave territory, and preventing their opposition to future Southern presidential candidates. He did not use those precise words, but that was the meaning of the words used. The cession of Texas was made in the crisis of the Missouri controversy; and both Mr. Monroe and Mr. Calhoun received the benefit of the conciliation it produced: Mr. Monroe in the re-election, almost unanimous, of 1820; and Mr. Calhoun in the vice-presidential elections of 1824 and 1828; in which he was so much a favorite of the North as to get more votes than Mr. Adams received in the free States, and owed to them his honorable election by the people, when all others were defeated, on the popular vote. Their justification (that of Mr. Monroe's cabinet) for this cession of a great province, was, that the loss was temporary—"that it could be got back again whenever it was wanted"—but the victory of San Jacinto was hardly foreseen at that time. It was these reasons (Northern conciliation, and getting it back when we pleased) that reconciled General Jackson to the cession, at the time it was made. One of the foremost to give away Texas, Mr. Calhoun was the very foremost to get her back; and at an immense cost to our foreign relations and domestic peace. The immediate admission

of Texas into the Union, was his plan. She was at war with Mexico—we at peace: to incorporate her into the Union, was to adopt her war. We had treaties of amity with Mexico: to join Texas in the war, was to be faithless to those treaties. We had a presidential election depending; and to discuss the question of Texian admission into our Union, was to bring that element into the canvass, in which all prudent men who were adverse to the admission (as Mr. Van Buren and his friends were), would be thrown under the force of an immense popular current; while all that were in favor of it would expect to swim high upon the waves of that current. The proposition was incredibly rash, tending to involve us in war and dishonor; and also disrespectful to Texas herself, who had not asked for admission; and extravagantly hasty, in being broached before there was any official news of the great victory. Before the debate was over, the author of this View took an opportunity to reply, without reference to other speakers, and to give reasons against the present admission of Texas. But there was one of Mr. Calhoun's reasons for immediate admission, which to him was enigmatical, and at that time, incomprehensible; and that was, the prevention of Texas "from having the power to annoy" the Southern slave States. We had just been employed in suppressing, or exploding, this annoyance, in the Northeast; and, in the twinkling of an eye, it sprung up in the Southwest, two thousand miles off, and quite diagonally from its late point of apparition. That sudden and so distant re-appearance of the danger, was a puzzle, remaining unsolved until the Tyler administration, and the return of Mr. Duff Green from London, with the discovery of the British abolition plot; which was to be planted in Texas, spread into the South, and blow up its slavery. Mr. Bedford Brown, and others, answered Mr. Calhoun. Mr. Brown said:

"He regarded our national character as worth infinitely more than all the territorial possessions of Mexico, her wealth, or the wealth of all other nations added together. We occupied a standing among the nations of the earth, of which we might well be proud, and which we ought not to permit to be tarnished. We have, said Mr. B., arrived at that period of our history, as a nation, when it behooves us to act with the greatest wisdom and circumspection. But a few years since as a nation, we were comparatively in a state of infancy; we were now, in the confidence of youth, and with the buoyancy of spirit incident to this period of our existence as a nation, about to enter on 'man's estate.' Powerful in resources, and conscious of our strength, let us not forget the sacred obligations of justice and good faith, which form the indispensable basis of a nation's character—greatness and freedom; and without which, no people could long preserve the blessings of self-government. Republican government was based on the principles of justice; and for it to be administered on any other, either in its foreign or domestic affairs, was to undermine its foundation and to hasten its overthrow."

Mr. Rives concurred in the necessity for caution; and said:

"This government should act with moderation, calmness, and dignity; and, because he wished the Senate to act with that becoming moderation, calmness, and dignity, which ought to characterize its deliberations on international subjects, it was his wish that the subject might be referred. If it was postponed, it would come up again for discussion, from morning to morning, to the exclusion of most of the business of the Senate, as there was nothing to prevent the presentation of petitions every morning, to excite discussion. It was for the purpose of avoiding these discussions, that he should vote to refer it at once to the Committee on Foreign Relations. A prominent member of that committee had been long and intimately acquainted with the subject of our foreign relations, and there were members on it representing all the different sections of the country, to whose charge he believed the subject could be safely committed. It would seem, from the course of debate this morning, that gentlemen supposed the question of the recognition of the independence of Texas, or its admission into this Union, was directly before the Senate; and some gentlemen had volunteered their opinions in advance of the report of the committee. He did not vote to refer it to the committee to receive its quietus, but that they might give their views upon it; nor did he feel as if he were called upon to express an opinion upon the propriety of the measure. It was strange that senators, who stated that their opinions were made up, should oppose the reference."

Mr. Niles, of Connecticut, was entirely in favor of preserving the national faith inviolate, and its honor untarnished, and ourselves from the imputation of base motives in our future conduct in relation to Texas, and said:

"This was a case in which this government should act with caution. In ordinary cases of this kind the question was only one of fact, and was but little calculated to compromit the interests or honor of the United States; but the

question in regard to Texas was very different, and vastly more important. That is a country on our own borders, and its inhabitants, most of them, emigrants from the United States; and most of the brave men constituting its army, who are so heroically fighting to redeem the province, are citizens of the United States, who have engaged in this bold enterprise as volunteers. Were this government to be precipitate in acknowledging the independence of Texas, might it not be exposed to a suspicion of having encouraged these enterprises of its citizens? There is another consideration of more importance. Should the independence of Texas be followed by its annexation to the United States, the reasons for suspicions derogatory to the national faith might be still stronger. If we, by our own act, contribute to clothe the constituted authorities of the province with the power of sovereignty over it, and then accept a cession of the country from those authorities, might there not be some reason to charge us with having recognized the independence of the country as a means of getting possession of it? These and other considerations require that this government should act with caution; yet, when the proper time arrives it will be our duty to act, and to act promptly. But he trusted that all would feel the importance of preserving the national faith and national honor. They should not only be kept pure, but free from injurious suspicions, being more to be prized than any extension of territory, wealth, population, or other acquisition, which enters into the elements of national prosperity or power."

The various memorials were referred to the committee on foreign relations, consisting of Mr. Clay, Mr. King of Georgia, Mr. Tallmadge, Mr. Mangum, and Mr. Porter of Louisiana; which reported early, and unanimously, in favor of the recognition of the independence of Texas, as soon as satisfactory information should be received, showing that she had a civil government in operation capable of performing the duties and fulfilling the obligations of a civilized power. In the report which accompanied the Resolution, its author, Mr. Clay, said:

"Sentiments of sympathy and devotion to civil liberty, which have always animated the people of the United States, have prompted the adoption of the resolution, and other manifestations of popular feeling which have been referred to the committee, recommending an acknowledgment of the independence of Texas. The committee shares fully in all these sentiments; but a wise and prudent government should not act solely on the impulse of feeling, however natural and laudable it may be. It ought to avoid all precipitation, and not adopt so grave a measure as that of recognizing the independence of a new Power, until it has satisfactory information, and has fully deliberated.

"The committee has no information respecting the recent movements in Texas, except such as is derived from the public prints. According to that, the war broke out in Texas last autumn. Its professed object, like that of our revolutionary contest in the commencement, was not separation and independence, but a redress of grievances. In March last, independence was proclaimed, and a constitution and form of government were established. No means of ascertaining accurately the exact amount of the population of Texas are at the command of the committee. It has been estimated at some sixty or seventy thousand souls. Nor are the precise limits of the country which passes under the denomination of Texas known to the committee. They are probably not clearly defined, but they are supposed to be extensive, and sufficiently large, when peopled, to form a respectable Power."

Mr. Southard concurred in the views and conclusion of the report, but desired to say a few words in reply to that part of Mr. Calhoun's speech which looked to the "balance of power, and the perpetuation of our institutions," as a reason for the speedy admission of Texas into the Union, and said:

"I should not have risen to express these notions, if I had not understood the Senator from South Carolina [Mr. Calhoun] to declare that he regarded the acknowledgment of the indepence of Texas as important, and principally important, because it prepared the way for the speedy admission of that State as a member of our Union; and that he looked anxiously to that event, as conducing to a proper balance of power, and to the perpetuation of our institutions. I am not now, sir, prepared to express an opinion on that question—a question which all must foresee will embrace interests as wide as our Union, and as lasting in their consequences as the freedom which our institutions secure. When it shall be necessarily presented to me, I shall endeavor to meet it in a manner suitable to its magnitude, and to the vital interests which it involves; but I will not, on the present resolution, anticipate it; nor can I permit an inference, as to my decision upon it, to be drawn from the vote which I now give. That vote is upon this resolution alone, and confined to it, founded upon principles sustained by the laws of nations, upon the unvarying practice of our government, and upon the facts as they are now known to exist. It relates to the independence of Texas, not to the admission of Texas into this Union. The achievement of the one, at the proper time, may be justified; the other may be found to be opposed by the highest and strongest considerations of interest and duty. I discuss neither at this time; nor am I willing

that the remarks of the senator should lead, in or out of this chamber, to the inference that all those who vote for the resolution concur with him in opinion. The question which he has started should be left perfectly open and free."

The vote in favor of the Resolution reported by Mr. Clay was unanimous—39 senators present and voting. In the House of Representatives a similar resolution was reported from the House Committee of foreign relations, Mr. John Y. Mason, of Virginia, chairman; and adopted by a vote of 113 to 22. The nays were: Messrs. John Quincy Adams, Heman Allen, Jeremiah Bailey, Andrew Beaumont, James W. Bouldin, William Clark, Walter Coles, Edward Darlington, George Grennell, jr., Hiland Hall, Abner Hazeltine, William Hiester, Abbott Lawrence, Levi Lincoln, Thomas C. Love, John J. Milligan, Dutee J. Pearce, Stephen C. Phillips, David Potts, jr., John Reed, David Russell, William Slade.

It is remarkable that in the progress of this Texas question both Mr. Adams and Mr. Calhoun reversed their positions—the former being against, and the latter in favor, of its alienation in 1819; the former being against, and the latter in favor of its recovery in 1836—'44.—Mr. Benton was the last speaker in the Senate in favor of the recognition of independence; and his speech being the most full and carefully historical of any one delivered, it is presented entire in the next chapter; and, it is believed, that in going more fully than other speakers did into the origin and events of the Texas Revolution, it will give a fair and condensed view of that remarkable event, so interesting to the American people.

CHAPTER CXLV.

TEXAS INDEPENDENCE—MR. BENTON'S SPEECH.

'Mr. Benton rose and said he should confine himself strictly to the proposition presented in the resolution, and should not complicate the practical question of recognition with speculations on the future fate of Texas. Such speculations could have no good effect upon either of the countries interested; upon Mexico, Texas, or the United States. Texas has not asked for admission into this Union. Her independence is still contested by Mexico. Her boundaries and other important points in her political condition, are not yet adjusted. To discuss the question of her admission into this Union, under these circumstances, is to treat her with disrespect, to embroil ourselves with Mexico, to compromise the disinterestedness of our motives in the eyes of Europe; and to start among ourselves prematurely, and without reason, a question which, whenever it comes, cannot be without its own intrinsic difficulties and perplexities.

"Since the three months that the affairs of Texas have been the subject of repeated discussion in this chamber, I have imposed on myself a reserve, not the effect of want of feeling, but the effect of strong feeling, and some judgment combined, which has not permitted me to give utterance to the general expression of my sentiments. Once only have I spoken, and that at the most critical moment of the contest, and when the reported advance of the Mexicans upon Nacogdoches, and the actual movement of General Gaines and our own troops in that direction, gave reason to apprehend the encounter of flags, or the collision of arms, which might compromise individuals or endanger the peace of nations. It was then that I used those words, not entirely enigmatical, and which have since been repeated by some, without the prefix of their important qualifications, namely; that while neutrality was the obvious line of our duty and of our interest, yet there might be emergencies in which the obligation of duty could have no force, and the calculations of interest could have no place; when, in fact, a man should have no head to think! nothing but a heart to feel! and an arm to strike! and I illustrated this sentiment. It was after the affair of Goliad, and the imputed order to unpeople the country, with the supposititious case of prisoners assassinated, women violated, and children slaughtered; and these horrors to be perpetrated in the presence or hearing of an American army. In such a case I declared it to be my sentiment—and I now repeat it, for I feel it to be in me—in such a case, I declared it to be my sentiment, that treaties were nothing, books were nothing, laws were nothing! that the paramount law of God and nature was every thing! and that the American soldier, hearing the cries of helplessness and weakness, and remembering only that he was a man, and born of woman, and the father of chil-

dren, should fly to the rescue, and strike to prevent the perpetration of crimes which shock humanity and dishonor the age. I uttered this sentiment not upon impulsion, but with consideration; not for theatrical effect, but as a rule for action; not as vague declamation, but with an eye to possible or probable events, and with a view to the public justification of General Gaines and his men, if, under circumstances appalling to humanity, they should nobly resolve to obey the impulsions of the heart instead of coldly consulting the musty leaves of books and treaties.

"Beyond this I did not go, and, except in this instance, I do not speak. Duty and interest prescribed to the United States a rigorous neutrality; and this condition she has faithfully fulfilled. Our young men have gone to Texas to fight; but they have gone without the sanction of the laws, and against the orders of the Government. They have gone upon that impulsion which, in all time, has carried the heroic youth of all ages to seek renown in the perils and glories of distant war. Our foreign enlistment law is not repealed. Unlike England, in the civil war now raging in Spain, we have not licensed interference by repealing our penalties: we have not stimulated action by withdrawing obstacles. No member of our Congress, like General Evans in the British Parliament, has left his seat to levy troops in the streets of the metropolis, and to lead them to battle and to victory in the land torn by civil discord. Our statute against armaments to invade friendly powers is in full force. Proclamations have attested our neutral dispositions. Prosecutions have been ordered against violators of law. A naval force in the gulf, and a land force on the Sabine, have been directed to enforce the policy of the government; and so far as acts have gone, the advantage has been on the side of Mexico; for the Texian armed schooner Invincible has been brought into an American port by an American ship of war. If parties and individuals still go to Texas to fight, the act is particular, not national, compromising none but the parties themselves, and may take place on one side as well as on the other. The conduct of the administration has been strictly neutral; and, as a friend to that administration, and from my own convictions, I have conformed to its policy, avoiding the language which would irritate, and opposing the acts which might interrupt pacific and commercial communications. Mexico is our nearest neighbor, dividing with us the continent of North America, and possessing the elements of a great power. Our boundaries are co-terminous for more than two thousand miles. We have inland and maritime commerce. She has mines; we have ships. General considerations impose upon each power the duties of reciprocal friendship; especial inducements invite us to uninterrupted commercial intercourse. As a western senator, coming from the banks of the Mississippi, and from the State of Missouri, I cannot be blind to the consequences of interrupting that double line of inland and maritime commerce, which, stretching to the mines of Mexico, brings back the perennial supply of solid money which enriches the interior, and enables New Orleans to purchase the vast accumulation of agricultural produce of which she is the emporium. Wonderful are the workings of commerce, and more apt to find out its own proper channels by its own operations than to be guided into them by the hand of legislation. New Orleans now is what the Havana once was—the entrepot of the Mexican trade, and the recipient of its mineral wealth. The superficial reader of commercial statistics would say that Mexico but slightly encourages our domestic industry; that she takes nothing from our agriculture, and but little from our manufactures. On the contrary, the close observer would see a very different picture. He would see the products of our soil passing to all the countries of Europe, exchanging into fine fabrics, and these returning in the ships of many nations, our own predominant, to the city of New Orleans; and thence going off in small Mexican vessels to Matamoros, Tampico, Vera Cruz, and other Mexican ports. The return from these ports is in the precious metals; and, to confine myself to a single year, as a sample of the whole, it may be stated that, of the ten millions and three quarters of silver coin and bullion received in the United States, according to the custom-house returns during the least year, eight millions and one quarter of it came from Mexico alone, and the mass of it through the port of New Orleans. This amount of treasure is not received for nothing, nor, as it would seem on the commercial tables, for foreign fabrics unconnected with American industry, but, in reality, for domestic productions changed into foreign fabrics, and giving

double employment to the navigation of the country. New Orleans has taken the place of the Havana; it has become the entrepot of this trade; and many circumstances, not directed by law, or even known to lawgivers, have combined to produce the result. First, the application of steam power to the propulsion of vessels, which, in the form of towboats, has given to a river city a prompt and facile communication with the sea; then the advantage of full and assorted cargoes, which brings the importing vessel to a point where she delivers freight for two different empires; then the marked advantage of a return cargo, with cheap and abundant supplies, which are always found in the grand emporium of the great West; then the discriminating duties in Mexican ports in favor of Mexican vessels, which makes it advantageous to the importer to stop and transship at New Orleans; finally, our enterprise, our police, and our free institutions, our perfect security, under just laws, for life, liberty, person and property. These circumstances, undirected by government, and without the knowledge of government, have given to New Orleans the supreme advantage of being the entrepot of the Mexican trade; and have presented the unparalleled spectacle of the noblest valley in the world, and the richest mines in the world, sending their respective products to meet each other at the mouth of the noblest river in the world; and there to create in lapse of time, the most wonderful city which any age or country has ever beheld. A look upon the map of the great West, and a tolerable capacity to calculate the aggregate of geographical advantages, must impress the beholder with a vast opinion of the future greatness of New Orleans; but he will only look upon one half of the picture unless he contemplates this new branch of trade which is making the emporium of the Mississippi the entrepot of Mexican commerce, and the recipient of the Mexican mines, and which, though now so great, is still in its infancy. Let not government mar a consummation so auspicious in its aspect, and teeming with so many rich and precious results. Let no unnecessary collision with Mexico interrupt our commerce, turn back the streams of three hundred mines to the Havana, and give a wound to a noble city which must be felt to the headspring and source of every stream that pours its tribute into the King of Floods.

"Thus far Mexico has no cause of complaint. The conduct of our government has been that of rigorous neutrality. The present motion does not depart from that line of conduct; for the proposed recognition is not only contingent upon the *de facto* independence of Texas, but it follows in the train, and conforms to the spirit, of the actual arrangements of the President General Santa Anna, for the complete separation of the two countries. We have authentic information that the President General has agreed to an armistice; that he has directed the evacuation of the country; that the Mexican army is in full retreat; that the Rio Grande, a limit far beyond the discovery and settlement of La Salle, in 1684, is the provisional boundary; and that negotiations are impending for the establishment of peace on the basis of separation. Mexico has had the advantage of these arrangements, though made by a captive chief, in the unmolested retreat and happy extrication of her troops from their perilous position. Under these circumstances, it can be no infringement of neutrality for the Senate of the United States to adopt a resolution for the contingent and qualified acknowledgment of Texian independence. Even after the adoption of the resolution, it will remain inoperative upon the hands of the President until he shall have the satisfactory information which shall enable him to act without detriment to any interest, and without infraction of any law.

"Even without the armistice and provisional treaty with Santa Anna, I look upon the separation of the two countries as being in the fixed order of events, and absolutely certain to take place. Texas and Mexico are not formed for union. They are not homogeneous. I speak of Texas as known to La Salle, the bay of St. Bernard—(Matagorda)—and the waters which belong to it, being the western boundary. They do not belong to the same divisions of country, nor to the same systems of commerce, nor to the same pursuits of business. They have no affinities—no attractions—no tendencies to coalesce. In the course of centuries, and while Mexico has extended her settlements infinitely further in other directions—to the head of the Rio Grande in the north, and to the bay of San Francisco in the northwest; yet no settlement had been extended east, along the neighboring coast of the Gulf of Mexico. The rich and deep

cotton and sugar lands of Texas, though at the very door of Mexico, yet requiring the application of a laborious industry to make them productive, have presented no temptation to the mining and pastoral population of that empire. For ages this beautiful agricultural and planting region had lain untouched. Within a few years, and by another race, its settlement has begun; and the presence of this race has not smoothed, but increased, the obstacles to union presented by nature. Sooner or later, separation would be inevitable; and the progress of human events has accelerated the operation of natural causes. Goliad has torn Texas from Mexico; Goliad has decreed independence; San Jacinto has sealed it! What the massacre decreed, the victory has sealed; and the day of the martyrdom of prisoners must for ever be regarded as the day of disunion between Texas and Mexico. I speak of it politically, not morally; that massacre was a great political blunder, a miscalculation, an error, and a mistake. It was expected to put an end to resistance, to subdue rebellion, to drown revolt in blood, and to extinguish aid in terror. On the contrary, it has given life and invincibility to the cause of Texas. It has fired the souls of her own citizens, and imparted to their courage the energies of revenge and despair. It has given to her the sympathies and commiseration of the civilized world. It has given her men and money, and claims upon the aid and a hold upon the sensibilities of the human race. If the struggle goes on, not only our America, but Europe will send its chivalry to join in the contest. I repeat it; that cruel morning of the Alamo, and that black day of Goliad, were great political faults. The blood of the martyr is the seed of the church. The blood of slaughtered patriots is the dragon's teeth sown upon the earth, from which heroes, full grown and armed, leap into life, and rush into battle. Often will the Mexican, guiltless of that blood, feel the Anglo-American steel for the deed of that day, if this war continues. Many were the innocent at San Jacinto, whose cries, in broken Spanish, abjuring Goliad and the Alamo, could not save their devoted lives from the avenging remembrance of the slaughtered garrison and the massacred prisoners.

"Unhappy day, for ever to be deplored, that Sunday morning, March 6, 1836, when the undaunted garrison of the Alamo, victorious in so many assaults over twenty times their number perished to the last man by the hands of those part of whom they had released on parole two months before, leaving not one to tell how they first dealt out to multitudes that death which they themselves finally received. Unhappy day that Palm Sunday, March 27, when the five hundred and twelve prisoners at Goliad, issuing from the sally port at dawn of day, one by one, under the cruel delusion of a return to their families, found themselves enveloped in double files of cavalry and infantry, marched to a spot fit for the perpetration of the horrid deed—and there, without an instant to think of parents, country, friends, and God—in the midst of the consternation of terror and surprise, were inhumanly set upon, and pitilessly put to death, in spite of those moving cries which reached to heaven, and regardless of those supplicating hands, stretched forth for mercy, from which arms had been taken under the perfidious forms of a capitulation. Five hundred and six perished that morning—young, vigorous, brave, sons of respectable families, and the pride of many a parent's heart—and their bleeding bodies, torn with wounds, and many yet alive, were thrown in heaps upon vast fires, for the flames to consume what the steel had mangled. Six only escaped, and not by mercy, but by miracles. And this was the work of man upon his brother; of Christian upon Christian; of those upon those who adore the same God, invoke the same heavenly benediction, and draw precepts of charity and mercy from the same divine fountain. Accursed be the ground on which the dreadful deed was done! Sterile, and set apart, let it for ever be! No fruitful cultivation should ever enrich it; no joyful edifice should ever adorn it; but shut up, and closed by gloomy walls, the mournful cypress, the weeping willow, and the inscriptive monument, should for ever attest the foul deed of which it was the scene, and invoke from every passenger the throb of pity for the slain, and the start of horror for the slayer. And you, neglected victims of the Old Mission and San Patricio, shall you be forgotten because your numbers were fewer, and your hapless fate more concealed? No! but to you also justice shall be done. One common fate befell you all; one common memorial shall perpetuate your names, and embalm your memories. Inexorable history will sit in judgment upon all concerned,

and will reject the plea of government orders, even if those orders emanated from the government, instead of being dictated to it. The French National Convention, in 1793, ordered all the English prisoners who should be taken in battle to be put to death. The French armies refused to execute the decree. They answered, that French soldiers were the protectors, not the assassins of prisoners; and all France, all Europe, the whole civilized world, applauded the noble reply.

"But let us not forget that there is some relief to this black and bloody picture—some alleviation to the horror of its appalling features. There was humanity, as well as cruelty, at Goliad—humanity to deplore what it could not prevent. The letter of Colonel Fernandez does honor to the human heart. Doubtless many other officers felt and mourned like him, and spent the day in unavailing regrets. The ladies, Losero and others, of Matamoros, saving the doomed victims in that city, from day to day, by their intercessions, appear like ministering angels. Several public journals, and many individuals, in Mexico, have given vent to feelings worthy of Christians, and of the civilization of the age; and the poor woman on the Gaudaloupe, who succored and saved the young Georgian (Hadaway), how nobly she appears! He was one of the few that escaped the fate of the Georgia battalion sent to the Old Mission. Overpowered by famine and despair, without arms and without comrades, he entered a solitary house filled with Mexican soldiers hunting the fugitives of his party. His action amazed them; and, thinking it a snare, they stepped out to look for the armed body of which he was supposed to be the decoy. In that instant food was given him by the humane woman, and instant flight to the swamp was pointed out. He fled, receiving the fire of many guns as he went; and, escaping the perils of the way, the hazards of battle at San Jacinto, where he fought, and of Indian massacre in the Creek nation, when the two stages were taken and part of his travelling companions killed, he lives to publish in America that instance of devoted humanity in the poor woman of the Gaudaloupe. Such acts as all these deserve to be commemorated. They relieve the revolting picture of military barbarity—soften the resentments of nations—and redeem a people from the offence of individuals.

"Great is the mistake which has prevailed in Mexico, and in some parts of the United States, on the character of the population which has gone to Texas. It has been common to disparage and to stigmatize them. Nothing could be more unjust; and, speaking from knowledge either personally or well acquired (for it falls to my lot to know, either from actual acquaintance or good information, the mass of its inhabitants), I can vindicate them from erroneous imputations, and place their conduct and character on the honorable ground which they deserve to occupy. The founder of the Texian colony was Mr. Moses Austin, a respectable and enterprising native of Connecticut, and largely engaged in the lead mines of Upper Louisiana when I went to the Territory of Missouri in 1815. The present head of the colony, his son, Mr. Stephen F. Austin, then a very young man, was a member of the Territorial Legislature, distinguished for his intelligence, business habits, and gentlemanly conduct. Among the grantees we distinguish the name of Robertson, son of the patriarchal founder and first settler of West Tennessee. Of the body of the emigrants, most of them are heads of families or enterprising young men, gone to better their condition by receiving grants of fine land in a fine climate, and to continue to live under the republican form of government to which they had been accustomed. There sits one of them (pointing to Mr. Carson, late member of Congress from North Carolina, and now Secretary of State for Texas). We all know him; our greetings on his appearance in this chamber attest our respect; and such as we know him to be, so do I know the multitude of those to be who have gone to Texas. They have gone, not as intruders, but as grantees; and to become a barrier between the Mexicans and the marauding Indians who infested their borders.

"Heartless is the calumny invented and propagated, not from this floor, but elsewhere, on the cause of the Texian revolt. It is said to be a war for the extension of slavery. It had as well be said that our own Revolution was a war for the extension of slavery. So far from it, that no revolt, not even our own, ever had a more just and a more sacred origin. The settlers in Texas went to live under the form of government which they had left behind in the United States—a government which extends so

many guarantees for life, liberty, property, and the pursuit of happiness, and which their American and English ancestors had vindicated for so many hundred years. A succession of violent changes in government, and the rapid overthrow of rulers, annoyed and distressed them; but they remained tranquil under every violence which did not immediately bear on themselves. In 1822 the republic of 1821 was superseded by the imperial diadem of Iturbide. In 1823 he was deposed and banished, returned and was shot, and Victoria made President. Mentuno and Bravo disputed the presidency with Victoria; and found, in banishment, the mildest issue known among Mexicans to unsuccessful civil war. Pedraza was elected in 1828; Guerrero overthrew him the next year. Then Bustamente overthrew Guerrero; and, quickly, Santa Anna overthrew Bustamente, and, with him, all the forms of the constitution, and the whole frame of the federative government. By his own will, and by force, Santa Anna dissolved the existing Congress, convened another, formed the two Houses into one, called it a convention; and made it the instrument for deposing, without trial, the constitutional Vice-President, Gomez Farias, putting Barragan into his place, annihilating the State governments, and establishing a consolidated government, of which he was monarch, under the retained republican title of President. Still, the Texians did not take up arms: they did not acquiesce, but they did not revolt. They retained their State government in operation, and looked to the other States, older and more powerful than Texas, to vindicate the general cause, and to re-establish the federal constitution of 1824. In September, 1835, this was still her position. In that month, a Mexican armed vessel appeared off the coast of Texas, and declared her ports blockaded. At the same time, General Cos appeared in the West with an army of fifteen hundred men, with orders to arrest the State authorities, to disarm the inhabitants, leaving one gun to every five hundred souls; and to reduce the State to unconditional submission. Gonzales was the selected point for the commencement of the execution of these orders; and the first thing was the arms, those trusty rifles which the settlers had brought with them from the United States, which were their defence against savages, their resource for game, and the guard which converted their houses into castles stronger than those 'which the king cannot enter.' A detachment of General Cos's army appeared at the village of Gonzales, on the 28th of September, and demanded the arms of the inhabitants; it was the same demand, and for the same purpose, which the British detachment, under Major Pitcairn had made at Lexington, on the 19th of April, 1775. It was the same demand! and the same answer was given—resistance—battle—victory! for the American blood was at Gonzales as it had been at Lexington; and between using their arms, and surrendering their arms, that blood can never hesitate. Then followed the rapid succession of brilliant events, which, in two months, left Texas without an armed enemy in her borders, and the strong forts of Goliad and the Alamo, with their garrisons and cannon, the almost bloodless prizes of a few hundred Texian rifles. This was the origin of the revolt; and a calumny more heartless can never be imagined than that which would convert this just and holy defence of life, liberty, and property, into an aggression for the extension of slavery.

"Just in its origin, valiant and humane in its conduct, sacred in its object, the Texian revolt has illustrated the Anglo-Saxon character, and given it new titles to the respect and admiration of the world.

"It shows that liberty, justice, valor—moral, physical, and intellectual power—discriminate that race wherever it goes. Let our America rejoice, let Old England rejoice, that the Brassos and Colorado, new and strange names—streams far beyond the western bank of the Father of Floods—have felt the impress, and witnessed the exploits of a people sprung from their loins, and carrying their language, laws, and customs, their *magna charta* and its glorious privileges, into new regions and far distant climes. Of the individuals who have purchased lasting renown in this young war, it would be impossible, in this place to speak in detail, and invidious to discriminate; but there is one among them whose position forms an exception, and whose early association with myself justifies and claims the tribute of a particular notice. I speak of him whose romantic victory has given to the Jacinto* that immortality in grave and serious history which the

* Hyacinth; hyacinthus; huakinthos; water flower.

diskos of Apollo had given to it in the fabulous pages of the heathen mythology. General Houston was born in the State of Virginia, county of Rockbridge: he was appointed an ensign in the army of the United States, during the late war with Great Britain, and served in the Creek campaign under the banners of Jackson. I was the lieutenant colonel of the regiment to which he belonged, and the first field officer to whom he reported. I then marked in him the same soldierly and gentlemanly qualities which have since distinguished his eventful career: frank, generous, brave; ready to do, or to suffer, whatever the obligations of civil or military duty imposed; and always prompt to answer the call of honor, patriotism, and friendship. Sincerely do I rejoice in his victory. It is a victory without alloy, and without parallel, except at New Orleans. It is a victory which the civilization of the age, and the honor of the human race, required him to gain: for the nineteenth century is not the age in which a repetition of the Goliad matins could be endured. Nobly has he answered the requisition; fresh and luxuriant are the laurels which adorn his brow.

"It is not within the scope of my present purpose, to speak of military events, and to celebrate the exploits of that vanguard of the Anglo-Saxons who are now on the confines of the ancient empire of Montezuma; but that combat of the San Jacinto! it must for ever remain in the catalogue of military miracles. Seven hundred and fifty citizens, miscellaneously armed with rifles, muskets, belt pistols, and knives, under a leader who had never seen service, except as a subaltern, march to attack near double their numbers—march in open day across a clear prairie, to attack upwards of twelve hundred veterans, the élite of an invading army of seven thousand, posted in a wood, their flanks secured, front intrenched; and commanded by a general trained in civil wars, victorious in numberless battles; and chief of an empire of which no man becomes chief except as conqueror. In twenty minutes, the position is forced. The combat becomes a carnage. The flowery prairie is stained with blood; the hyacinth is no longer blue, but scarlet. Six hundred Mexicans are dead; six hundred more are prisoners, half wounded; the President General himself is a prisoner; the camp and baggage all taken; and the loss of the victors, six killed and twenty wounded. Such are the results, and which no European can believe, but those who saw Jackson at New Orleans. Houston is the pupil of Jackson; and he is the first self-made general, since the time of Mark Antony, and the King Antigonus, who has taken the general of the army and the head of the government captive in battle. Different from Antony, he has spared the life of his captive, though forfeited by every law, human and divine.

"I voted, in 1821, to acknowledge the absolute independence of Mexico; I vote now to recognize the contingent and expected independence of Texas. In both cases, the vote is given upon the same principle—upon the principle of disjunction where conjunction is impossible or disastrous. The Union of Mexico and Spain had become impossible; that of Mexico and Texas is no longer desirable or possible. A more fatal present could not be made than that of the future incorporation of the Texas of La Salle with the ancient empire of Montezuma. They could not live together, and extermination is not the genius of the age; and, besides, is more easily talked of than done. Bloodshed only could be the fruit of their conjunction; and every drop of that blood would be the dragon's teeth sown upon the earth. No wise Mexican should wish to have this Trojan horse shut up within their walls."

CHAPTER CXLVI.

THE SPECIE CIRCULAR.

The issue of the Treasury order, known as the "Specie Circular," was one of the events which marked the foresight, the decision, and the invincible firmness of General Jackson. It was issued immediately after the adjournment of Congress, and would have been issued before the adjournment, except for the fear that Congress would counteract it by law. It was an order to all the land-offices to reject paper money, and receive nothing but gold and silver in payment of the public lands; and was issued under the authority of the resolution of the year 1816 which, in giving the Secretary of the Treasury

discretionary authority to receive the notes of specie paying banks in revenue payments, gave him also the right to reject them. The number of these banks had now become so great, the quantity of notes issued so enormous, the facility of obtaining loans so universal, and the temptation to converting shadowy paper into real estate, so tempting, that the rising streams of paper from seven hundred and fifty banks took their course towards the new States, seat of the public domain—discharging in accumulated volume there collected torrents upon the different land-offices. The sales were running up to five millions a month, with the prospect of unbounded increase after the rise of Congress; and it was this increase from the land sales which made that surplus which the constitution had been burlesqued to divide among the States. And there was no limit to this conversion of public land into inconvertible paper. In the custom-house branch of the revenue there was a limit in the amount to be received—limited by the amount of duties to be paid: but in the land-office branch there was no limit. It was therefore at that point that the remedy was wanted; and, for that reason, the "Specie Circular" was limited in its application to the land-offices; and totally forbade the sale of the public lands for any thing but hard money. It was an order of incalculable value to the United States, and issued by President Jackson in known disregard of the will both of the majority of Congress and of his cabinet.

Before the adjournment of Congress, and in concert with the President, the author of this View had attempted to get an act of Congress to stop the evil; and in support of his motion to that effect gave his opinion of the evil itself, and of the benefits which would result from its suppression. He said:

"He was able to inform the Senate how it happened that the sales of the public lands had deceived all calculations, and run up from four millions a year to five millions a quarter; it was this: speculators went to banks, borrowed five, ten, twenty, fifty thousand dollars in paper, in small notes, usually under twenty dollars, and engaged to carry off these notes to a great distance, sometimes five hundred or a thousand miles; and there laid them out for public lands. Being land-office money, they would circulate in the country; many of these small notes would never return at all, and their loss would be a clear gain to the bank; others would not return for a long time; and the bank would draw interest on them for years before they had to redeem them. Thus speculators, loaded with paper, would outbid settlers and cultivators, who had no undue accommodations from banks, and who had nothing but specie to give for lands, or the notes which were its real equivalent. Mr. B. said that, living in a new State, it came within his knowledge that such accommodations as he had mentioned were the main cause of the excessive sales which had taken place in the public lands, and that the effect was equally injurious to every interest concerned—except the banks and the speculators: it was injurious to the treasury, which was filling up with paper; to the new States, which were flooded with paper; and to settlers and cultivators, who were outbid by speculators, loaded with this borrowed paper. A return to specie payments for lands is the remedy for all these evils."

Having exposed the evil, and that to the country generally as well as to the federal treasury, Mr. B. went on to give his opinion of the benefits of suppressing it; and said:

"It would put an end to every complaint now connected with the subject, and have a beneficial effect upon every public and private interest. Upon the federal government its effect would be to check the unnatural sale of the public lands to speculators for paper; it would throw the speculators out of market, limit the sales to settlers and cultivators, stop the swelling increases of paper surpluses in the treasury, put an end to all projects for disposing of surpluses; and relieve all anxiety for the fate of the public moneys in the deposit banks. Upon the new States, where the public lands are situated, its effects would be most auspicious. It would stop the flood of paper with which they are inundated, and bring in a steady stream of gold and silver in its place. It would give them a hard-money currency. and especially a share of the gold currency; for every emigrant could then carry gold to the country. Upon the settler and cultivator who wished to purchase land its effect would be peculiarly advantageous. He would be relieved from the competition of speculators; he would not have to contend with those who received undue accommodations at banks, and came to the land-offices loaded with bales of bank notes which they had borrowed upon condition of carrying them far away, and turning them loose where many would be lost, and never get back to the bank that issued them. All these and many other good effects would thus be produced, and no hardship or evil of any kind could accrue to the meritorious part of the country; for the settler and cultivator who wishes to buy land for use, or for a settlement for his children, or to increase his farm, would have no difficulty in getting hard money to make his purchase. He has no undue accommodations from banks. He has no paper but what is good; such as he can readily convert into specie. To him the exac-

tion of specie payments from all purchasers would be a rule of equality, which would enable him to purchase what he needs without competition with fictitious and borrowed capital."

Mr. B. gave a view of the actual condition of the paper currency, which he described as hideous and appalling, doomed to a catastrophe; and he advised every prudent man, as well as the government, to fly from its embrace. His voice, and his warning, answered no purpose. He got no support for his motion. A few friends were willing to stand by him, but the opposition senators stood out in unbroken front against it, reinforced largely by the friends of the administration: but it is in vain to attribute the whole opposition to the measure merely to the mistaken opinions of friends, and the resentful policy of foes. There was another cause operating to the same effect; and the truth of history requires it to be told. There were many members of Congress engaged in these land speculations, upon loans of bank paper; and who were unwilling to see a sudden termination of so profitable a game. The rejection of the bill it was thought would be sufficient; and on the news of it the speculation redoubled its activity. But there was a remedy in reserve for the cure of the evil which they had not foreseen, and which was applied the moment that Congress was gone. Jackson was still President! and he had the nerve which the occasion required. He saw the public lands fleeting away—saw that Congress would not interfere—and knew the majority of his cabinet to be against his interference. He did as he had often done in councils of war—called the council together to hear a decision. He summoned his cabinet—laid the case before them—heard the majority of adverse opinions:—and directed the order to issue. His private Secretary, Mr. Donelson, was directed to prepare a draught of the order. The author of this View was all the while in the office of this private Secretary. Mr. Donelson came to him, with the President's decision, and requested him to draw up the order. It was done—the rough draught carried back to the council—put into official form—signed—issued. It was a second edition of the removal of the deposits scene, and made an immense sensation. The disappointed speculators raged. Congress was considered insulted, the cabinet defied, the banks disgraced. But the vindication of the measure soon came, in the discovery of the fact, that some tens of millions of this bank paper was on its way to the land-offices to be changed into land—when overtaken by this fatal "Specie Circular," and turned back to the sources from which it came.

CHAPTER CXLVII.

DEATH OF MR. MADISON, FOURTH PRESIDENT OF THE UNITED STATES.

He died in the last year of the second term of the presidency of General Jackson, at the advanced age of eighty-six, his mind clear and active to the last, and greatly occupied with solicitous concern for the safety of the Union which he had contributed so much to establish. He was a patriot from the beginning. "When the first blood was shed in the streets of Boston, he was a student in the process of his education at Princeton College, where the next year, he received the degree of Bachelor of Arts. He was even then so highly distinguished by the power of application and the rapidity of progress, that he performed all the exercises of the two senior collegiate years in one—while at the same time his deportment was so exemplary, that Dr. Witherspoon, then at the head of the college, and afterwards himself one of the most eminent patriots and sages of our revolution, always delighted in bearing testimony to the excellency of his character at that early stage of his career; and said to Thomas Jefferson long afterwards, when they were all colleagues in the revolutionary Congress, that in the whole career of Mr. Madison at Princeton, he had never known him say, or do, an indiscreet thing." So wrote Mr. John Quincy Adams in his discourse upon the "Life of James Madison," written at the request of the two Houses of Congress: and in this germ of manhood is to be seen all the qualities of head and heart which mature age, and great events, so fully developed, and which so nobly went into the formation of national character while constituting his own: the same quick intellect, the same laborious application, the same purity of morals, the same decorum of deportment. He had a rare combination of talent—a speaker, a writer, a counsellor. In these qualites of the mind he classed

with General Hamilton; and was, perhaps, the only eminent public man of his day who so classed, and so equally contended in three of the fields of intellectual action. Mr. Jefferson was accustomed to say he was the only man that could answer Hamilton. Perspicuity, precision, closeness of reasoning, and strict adherence to the unity of his subject, were the characteristics of his style; and his speeches in Congress, and his dispatches from the State Department, may be equally studied as models of style, diplomatic and parliamentary as sources of information, as examples of integrity in conducting public questions: and as illustrations of the amenity with which the most earnest debate, and the most critical correspondence, can be conducted by good sense, good taste, and good temper. Mr. Madison was one of the great founders of our present united federal government, equally efficient in the working convention which framed the constitution and the written labors which secured its adoption. Co-laborer with General Hamilton in the convention and in the Federalist—both members of the old Congress and of the convention at the same time, and working together in both bodies for the attainment of the same end, until the division of parties in Washington's time began to estrange old friends, and to array against each other former cordial political co-laborers. As the first writer of one party, General Hamilton wrote some leading papers, which, as the first writer of the other party, Mr. Madison was called upon to answer: but without forgetting on the part of either their previous relations, their decorum of character, and their mutual respect for each other. Nothing that either said could give an unpleasant personal feeling to the other; and, though writing under borrowed names, their productions were equally known to each other and the public; for none but themselves could imitate themselves. Purity, modesty, decorum—a moderation, temperance, and virtue in every thing — were the characteristics of Mr. Madison's life and manners; and it is grateful to look back upon such elevation and beauty of personal character in the illustrious and venerated founders of our Republic, leaving such virtuous private characters to be admired, as well as such great works to be preserved. The offer of this tribute to the memory of one of the purest of public men is the more gratefully rendered, private reasons mixing with considerations of public duty. Mr. Madison is the only President from whom he ever asked a favor, and who granted immediately all that was asked—a lieutenant-colonelcy in the army of the United States in the late war with Great Britain.

CHAPTER CXLVIII.

DEATH OF MR. MONROE, FIFTH PRESIDENT OF THE UNITED STATES.

He died during the first term of the administration of President Jackson, and is appropriately noticed in this work next after Mr. Madison, with whom he had been so long and so intimately associated, both in public and in private life; and whose successor he had been in successive high posts, including that of the presidency itself. He is one of our eminent public characters which have not attained their due place in history; nor has any one attempted to give him that place but one—Mr John Quincy Adams—in his discourse upon the life of Mr. Monroe. Mr. Adams, and who could be a more competent judge? places him in the first line of American statesmen, and contributing, during the fifty years of his connection with the public affairs, a full share in the aggrandisement and advancement of his country. His parts were not shining, but solid. He lacked genius, but he possessed judgment: and it was the remark of Dean Swift, well illustrated in his own case and that of his associate friends, Harley and Bolingbroke (three of the rarest geniuses that ever acted together, and whose cause went to ruin notwithstanding their wit and eloquence), that genius was not necessary to the conducting of the affairs of state: that judgment, diligence, knowledge, good intentions, and will, were sufficient. Mr. Monroe was an instance of the soundness of this remark, as well as the three brilliant geniuses of Queen Anne's time, and on the opposite side of it. Mr. Monroe had none of the mental qualities which dazzle and astonish mankind; but he had a discretion which seldom committed a mistake—an integrity that always looked to the public good—a firmness of will which carried him resolutely upon his object—a diligence

that mastered every subject—and a perseverance that yielded to no obstacle or reverse. He began his patriotic career in the military service, at the commencement of the war of the revolution—went into the general assembly of his native State at an early age—and thence, while still young, into the continental Congress. There he showed his character, and laid the foundation of his future political fortunes in his uncompromising opposition to the plan of a treaty with Spain by which the navigation of the Mississippi was to be given up for twenty-five years in return for commercial privileges. It was the qualities of judgment, and perseverance, which he displayed on that occasion, which brought him those calls to diplomacy in which he was afterwards so much employed with three of the then greatest European powers—France, Spain, Great Britain. And it was in allusion to this circumstance that President Jefferson afterwards, when the right of deposit at New Orleans had been violated by Spain, and when a minister was wanted to recover it, said, "Monroe is the man: the defence of the Mississippi belongs to him." And under this appointment he had the felicity to put his name to the treaty which secured the Mississippi, its navigation and all the territory drained by its western waters, to the United States for ever. Several times in his life he seemed to miscarry, and to fall from the top to the bottom of the political ladder: but always to reascend as high, or higher than ever. Recalled by Washington from the French mission, to which he had been appointed from the Senate of the United States, he returned to the starting point of his early career—the general assembly of his State—served as a member from his county—was elected Governor; and from that post restored by Jefferson to the French mission, soon to be followed by the embassies to Spain and England. Becoming estranged from Mr. Madison about the time of that gentleman's first election to the presidency, and having returned from his missions a little mortified that Mr. Jefferson had rejected his British treaty without sending it to the Senate, he was again at the foot of the political ladder, and apparently out of favor with those who were at its top. Nothing despairing, he went back to the old starting point—served again in the Virginia general assembly—was again elected Governor: and from that post was called to the cabinet of Mr. Madison, to be his double Secretary of State and War. He was the effective power in the declaration of war against Great Britain. His residence abroad had shown him that unavenged British wrongs was lowering our character with Europe, and that war with the "mistress of the seas" was as necessary to our respectability in the eyes of the world, as to the security of our citizens and commerce upon the ocean. He brought up Mr. Madison to the war point. He drew the war report which the committee on foreign relations presented to the House—that report which the absence of Mr. Peter B. Porter, the chairman, and the hesitancy of Mr. Grundy, the second on the committee, threw into the hands of Mr. Calhoun, the third on the list and the youngest of the committee; and the presentation of which immediately gave him a national reputation. Prime mover of the war, he was also one of its most efficient supporters, taking upon himself, when adversity pressed, the actual duties of war minister, financier, and foreign secretary at the same time. He was an enemy to all extravagance, to all intrigue, to all indirection in the conduct of business. Mr. Jefferson's comprehensive and compendious eulogium upon him, as brief as true, was the faithful description of the man—"honest and brave." He was an enemy to nepotism, and no consideration or entreaty—no need of the support which an office would give, or intercession from friends—could ever induce him to appoint a relative to any place under the government. He had opposed the adoption of the constitution until amendments were obtained; but these had, he became one of its firmest supporters, and labored faithfully, anxiously and devotedly, to administer it in its purity. He was the first President under whom the author of this View served, commencing his first senatorial term with the commencement of the second presidential term of this last of the men of the revolution who were spared to fill the office in the great Republic which they had founded.

CHAPTER CXLIX.

DEATH OF CHIEF JUSTICE MARSHALL.

He died in the middle of the second term of General Jackson's presidency, having been chief justice of the Supreme Court of the United States full thirty-five years, presiding all the while (to use the inimitable language of Mr. Randolph), "with native dignity and unpretending grace." He was supremely fitted for high judicial station:—a solid judgment, great reasoning powers, acute and penetrating mind: with manners and habits to suit the purity and the sancity of the ermine:—attentive, patient, laborious: grave on the bench, social in the intercourse of life: simple in his tastes, and inexorably just. Seen by a stranger come into a room, and he would be taken for a modest country gentleman, without claims to attention, and ready to take the lowest place in company, or at table, and to act his part without trouble to any body. Spoken to, and closely observed, he would be seen to be a gentleman of finished breeding, of winning and prepossessing talk, and just as much mind as the occasion required him to show. Coming to man's estate at the beginning of the revolution he followed the current into which so many young men, destined to become eminent, so ardently entered; and served in the army, and with notice and observation, under the eyes of Washington. Elected to Congress at an early age he served in the House of Representatives in the time of the elder Mr. Adams, and found in one of the prominent questions of the day a subject entirely fitted to his acute and logical turn of mind—the case of the famous Jonathan Robbins, claiming to be an American citizen, reclaimed by the British government as a deserter, delivered up, and hanged at the yard-arm of an English man-of-war. Party spirit took up the case, and it was one to inflame that spirit. Mr. Marshall spoke in defence of the administration, and made the master speech of the day, when there were such master speakers in Congress as Madison, Gallatin, William B. Giles, Edward Livingston, John Randolph. It was a judicial subject, adapted to the legal mind of Mr. Marshall, requiring a legal pleading: and well did he plead it. Mr. Randolph has often been heard to say that it distanced competition—leaving all associates and opponents far behind, and carrying the case. Seldom has one speech brought so much fame, and high appointment to any one man. When he had delivered it his reputation was in the zenith: in less than nine brief months thereafter he was Secretary at War, Secretary of State, Minister to France, and Chief Justice of the Supreme Court of the United States. Politically, he classed with the federal party, and was one of those high-minded and patriotic men of that party, who, acting on principle, commanded the respect of those even who deemed them wrong.

CHAPTER CL.

DEATH OF COL. BURR, THIRD VICE-PRESIDENT OF THE UNITED STATES.

He was one of the few who, entering the war of independence with ardor and brilliant prospects, disappointed the expectations he had created, dishonored the cause he had espoused, and ended in shame the career which he had opened with splendor. He was in the adventurous expedition of Arnold through the wilderness to Quebec, went ahead in the disguise of a priest to give intelligence of the approach of aid to General Montgomery, arrived safely through many dangers, captivated the General by the courage and address which he had shown, was received by him into his military family; and was at his side when he was killed. Returning to the seat of war in the Northern States he was invited by Washington, captivated like Montgomery by the soldierly and intellectual qualities he had shown, to his headquarters, with a view to placing him on his staff; but he soon perceived that the brilliant young man lacked principle; and quietly got rid of him. The after part of his life was such as to justify the opinion which Washington had formed of him; but such was his address and talent as to rise to high political distinction: Attorney General of New-York, Senator in Congress, and Vice-President of the United States. At the close of the presidential election of 1800, he stood equal with Mr. Jefferson in the vote which he received, and his undoubted

successor at the end of Mr. Jefferson's term. But there his honors came to a stand, and took a downward turn, nor ceased descending until he was landed in the abyss of shame, misery, and desolation. He intrigued with the federalists to supplant Mr. Jefferson—to get the place of President, for which he had not received a single vote—was suspected, detected, baffled—lost the respect of his party, and was thrown upon crimes to recover a position, or to avenge his losses. The treasonable attempt in the West, and the killing of General Hamilton, ended his career in the United States. But although he had deceived the masses, and reached the second office of the government, with the certainty of attaining the first if he only remained still, yet there were some close observers whom he never deceived. The early mistrust of Washington has been mentioned: it became stronger as Burr mounted higher in the public favor; and in 1794, when a senator in Congress, and when the republican party had taken him for their choice for the French mission in the place of Mr. Monroe recalled, and had sent a committee of which Mr. Madison was chief to ask his nomination from Washington, that wise and virtuous man peremptorily refused it, giving as a categorical reason, that his rule was invariable, never to appoint an immoral man to any office. Mr. Jefferson had the same ill opinion of him, and, notwithstanding his party zeal, always considered him in market when the federalists had any high office to bestow. But General Hamilton was most thoroughly imbued with a sense of his unworthiness, and deemed it due to his country to balk his election over Jefferson; and did so. His letters to the federal members of Congress painted Burr in his true character, and dashed far from his grasp, and for ever, the gilded prize his hand was touching. For that frustration of his hopes, four years afterwards, he killed Hamilton in a duel, having on the part of Burr the spirit of an assassination—cold-blooded, calculated, revengeful, and falsely-pretexted. He alleged some trivial and recent matter for the challenge, such as would not justify it in any code of honor; and went to the ground to kill upon an old grudge which he was ashamed to avow. Hard was the fate of Hamilton—losing his life at the early age of forty-two for having done justice to his country in the person of the man to whom he stood most politically opposed, and the chief of the party by which he had been constrained to retire from the scene of public life at the age of thirty-four—the age at which most others begin it—he having accomplished gigantic works. He was the man most eminently and variously endowed of all the eminent men of his day—at once soldier and statesman, with a head to conceive, and a hand to execute: a writer, an orator, a jurist: an organizing mind, able to grasp the greatest system; and administrative, to execute the smallest details: wholly turned to the practical business of life, and with a capacity for application and production which teemed with gigantic labors, each worthy to be the sole product of a single master intellect; but lavished in litters from the ever teeming fecundity of his prolific genuis. Hard his fate, when, withdrawing from public life at the age of thirty-four, he felt himself constrained to appeal to posterity for that justice which contemporaries withheld from him. And the appeal was not in vain. Statues rise to his memory: history embalms his name: posterity will do justice to the man who at the age of twenty was "the principal and most confidential aid of Washington," who retained the love and confidence of the Father of his country to the last; and to whom honorable opponents, while opposing his systems of policy, accorded honor, and patriotism, and social affections, and transcendental abilities.—This chapter was commenced to write a notice of the character of Colonel Burr; but that subject will not remain under the pen. At the appearance of that name, the spirit of Hamilton starts up to rebuke the intrusion—to drive back the foul apparition to its gloomy abode—and to concentrate all generous feeling on itself.

CHAPTER CLI.

DEATH OF WILLIAM B. GILES, OF VIRGINIA.

He also died under the presidency of General Jackson. He was one of the eminent public men coming upon the stage of action with the establishment of the new constitution—with the change from a League to a Union; from the confederation to the unity of the States—and

was one of the most conspicuous in the early annals of our Congress. He had that kind of speaking talent which is most effective in legislative bodies, and which is so different from set-speaking. He was a debater; and was considered by Mr. Randolph to be, in our House of Representatives, what Charles Fox was admitted to be in the British House of Commons: the most accomplished debater which his country had ever seen. But their acquired advantages were very different, and their schools of practice very opposite. Mr. Fox perfected himself in the House, speaking on every subject; Mr. Giles out of the House, talking to every body. Mr. Fox, a ripe scholar, addicted to literature, and imbued with all the learning of all the classics in all time; Mr. Giles neither read nor studied, but talked incessantly with able men, rather debating with them all the while: and drew from this source of information, and from the ready powers of his mind, the ample means of speaking on every subject with the fulness which the occasion required, the quickness which confounds an adversary, and the effect which a lick in time always produces. He had the kind of talent which was necessary to complete the circle of all sorts of ability which sustained the administration of Mr. Jefferson. Macon was wise, Randolph brilliant, Gallatin and Madison able in argument; but Giles was the ready champion, always ripe for the combat—always furnished with the ready change to meet every bill. He was long a member of the House; then senator, and governor; and died at an advanced age, like Patrick Henry, without doing justice to his genius in the transmission of his labors to posterity; because, like Henry, he had been deficient in education and in reading. He was the intimate friend of all the eminent men of his day, which sufficiently bespeaks him a gentleman of manners and heart, as well as a statesman of head and tongue.

CHAPTER CLII.

PRESIDENTIAL ELECTION OF 1836.

Mr. Van Buren was the candidate of the democratic party; General Harrison the candidate of the opposition; and Mr. Hugh L. White that of a fragment of the democracy. Mr. Van Buren was elected, receiving one hundred and seventy electoral votes, to seventy-three given to General Harrison, and twenty-six given to Mr. White. The States voting for each, were:—Mr. Van Buren: Maine, New Hampshire, Rhode Island, Connecticut, New York, Pennsylvania, Virginia, North Carolina, Louisiana, Mississippi, Illinois, Alabama, Missouri, Michigan, Arkansas. For General Harrison: Vermont, New Jersey, Delaware, Maryland, Kentucky, Ohio, Indiana. For Mr. White: Georgia and Tennessee. Massachusetts complimented Mr. Webster by bestowing her fourteen votes upon him; and South Carolina, as in the two preceding elections, threw her vote away upon a citizen not a candidate, and not a child of her soil—Mr. Mangum of North Carolina—disappointing the expectations of Mr. White's friends, whose standing for the presidency had been instigated by Mr. Calhoun, to divide the democratic party and defeat Mr. Van Buren. Colonel Richard M. Johnson, of Kentucky, was the democratic candidate for the vice-presidency, and received one hundred and forty-seven votes, which, not being a majority of the whole number of votes given, the election was referred to the Senate, to choose between the two highest on the list; and that body being largely democratic, he was duly elected: receiving thirty-three out of forty-nine senatorial votes. The rest of the vice-presidential vote, in the electoral colleges, had been between Mr. Francis Granger, of New York, who received seventy-seven votes; Mr. John Tyler, of Virginia, who received forty-seven; and Mr. William Smith, of South Carolina, complimented by Virginia with her twenty-three votes. Mr. Granger, being the next highest on the list, after Colonel Johnson, was voted for as one of the two referred to the Senate; and received sixteen votes. A list of the senators voting for each will show the strength of the respective parties in the Senate, at the approaching end of President Jackson's administration; and how signally all the efforts intended to overthrow him had ended in the discomfiture of their authors, and converted an absolute majority of the whole Senate into a meagre minority of one third. The votes for Colonel Johnson were: Mr. Benton of Missouri; Mr. Black of Mississippi; Mr. Bedford Brown of North Carolina; Mr. Buchan-

an of Pennsylvania; Mr. Cuthbert of Georgia; Mr. Dana of Maine; Mr. Ewing of Illinois; Mr. Fulton of Arkansas; Mr. Grundy of Tennessee; Mr. Hendricks of Indiana; Mr. Hubbard of Maine; Mr. William Rufus King of Alabama; Mr. John P. King of Georgia; Mr. Louis F. Linn of Missouri; Mr. Lucius Lyon of Michigan; Mr. McKean of Pennsylvania; Mr. Gabriel Moore of Alabama; Mr. Morris of Ohio; Mr. Alexander Mouton of Louisiana; Mr. Wilson C. Nicholas of Louisiana; Mr. Niles of Connecticut; Mr. John Norvell of Michican; Mr. John Page of New Hampshire; Mr. Richard E. Parker of Virginia; Mr. Rives of Virginia; Mr. John M. Robinson of Illinois; Mr. Ruggles of Maine; Mr. Ambrose H. Sevier of Arkansas; Mr. Peleg Sprague of Maine; Mr. Robert Strange of North Carolina; Mr. Nathaniel P. Talmadge of New York; Mr. Tipton of Indiana; Mr. Robert J. Walker of Mississippi; Mr. Silas Wright of New York. Those voting for Mr. Francis Granger were: Mr. Richard H. Bayard of Delaware; Mr. Clay; Mr. John M. Clayton of Delaware; Mr. John Crittenden of Kentucky; Mr. John Davis of Massachusetts; Mr. Thomas Ewing of Ohio; Mr. Kent of Maryland; Mr. Nehemiah Knight of Rhode Island; Mr. Prentiss of Vermont; Mr. Asher Robbins of Rhode Island; Mr. Samuel L. Southard of New Jersey; Mr. John S. Spence of Maryland; Mr. Swift of Vermont; Mr. Gideon Tomlinson of Connecticut; Mr. Wall of New Jersey; Mr. Webster. South Carolina did not vote, neither in the person of Mr. Calhoun nor in that of his colleague, Mr. Preston: an omission which could not be attributed to absence or accident, as both were present; nor fail to be remarked and considered ominous in the then temper of the State, and her refusa' to vote in the three preceding presidential elections.

CHAPTER CLIII.

LAST ANNUAL MESSAGE OF PRESIDENT JACKSON.

At the opening of the second Session of the twenty-fourth Congress, President Jackson delivered his last Annual Message, and under circumstances to be grateful to his heart. The powerful opposition in Congress had been broken down, and he saw full majorities of ardent and tried friends in each House. We were in peace and friendship with all the world, and all exciting questions quieted at home. Industry in all its branches was prosperous. The revenue was abundant—too much so. The people were happy. His message, of course, was first a recapitulation of this auspicious state of things, at home and abroad; and then a reference to the questions of domestic interest and policy which required attention, and might call for action. At the head of these measures stood the deposit act of the last session—the act which under the insidious and fabulous title of a deposit of a surplus of revenue with the States—made an actual distribution of that surplus; and was intended by its contrivers to do so. His notice of this measure went to two points—his own regrets for having signed the act, and his misgivings in relation to its future observation. He said:

"The consequences apprehended, when the deposit act of the last session received a reluctant approval, have been measurably realized. Though an act merely for the deposit of the surplus moneys of the United States in the State Treasuries, for safe keeping, until they may be wanted for the service of the general government, it has been extensively spoken o as an act to give the money to the several States, and they have been advised to use it as a gift, without regard to the means of refunding it when called for. Such a suggestion has doubtless been made without a due consideration of the obligation of the deposit act, and without a proper attention to the various principles and interests which are affected by it. It is manifest that the law itself cannot sanction such a suggestion, and that, as it now stands, the States have no more authority to receive and use these deposits without intending to return them, than any deposit bank, or any individual temporarily charged with the safe-keeping or application of the public money, would now have for converting the same to their private use, without the consent and against the will of the government. But, independently of the violation of public faith and moral obligation which are involved in this suggestion, when examined in reference to the terms of the present deposit act, it is believed that the considerations which should govern the future legislation of Congress on this subject, will be equally conclusive against the adoption of any measure recognizing the principles on which the suggestion has been made."

This misgiving was well founded. Before the

session was over there was actually a motion to release the States from their obligation to restore the money—to lay which motion on the table there were seventy-three resisting votes—an astonishing number in itself, and the more so as given by the same members, sitting in the same seats, who had voted for the act as a deposit a few months before. Such a vote was ominous of the fate of the money; and that fate was not long delayed. Akin to this measure, and in fact the parent of which it was the bastard progeny, was distribution itself, under its own proper name; and which it was evident was soon to be openly attempted, encouraged as its advocates were by the success gained in the deposit act. The President, with his characteristic frankness and firmness, impugned that policy in advance; and deprecated its effects under every aspect of public and private justice, and of every consideration of a wise or just policy. He said:

"To collect revenue merely for distribution to the States, would seem to be highly impolitic, if not as dangerous as the proposition to retain it in the Treasury. The shortest reflection must satisfy every one that to require the people to pay taxes to the government merely that they may be paid back again, is sporting with the substantial interests of the country, and no system which produces such a result can be expected to receive the public countenance. Nothing could be gained by it, even if each individual who contributed a portion of the tax could receive back promptly the same portion. But it is apparent that no system of the kind can ever be enforced, which will not absorb a considerable portion of the money, to be distributed in salaries and commissions to the agents employed in the process, and in the various losses and depreciations which arise from other causes; and the practical effect of such an attempt must ever be to burden the people with taxes, not for purposes beneficial to them, but to swell the profits of deposit banks, and support a band of useless public officers. A distribution to the people is impracticable and unjust in other respects. It would be taking one man's property and giving it to another. Such would be the unavoidable result of a rule of equality (and none other is spoken of, or would be likely to be adopted), inasmuch as there is no mode by which the amount of the individual contributions of our citizens to the public revenue can be ascertained. We know that they contribute *unequally*, and a rule therefore that would distribute to them *equally*, would be liable to all the objections which apply to the principle of an equal division of property. To make the general government the instrument of carrying this odious principle into effect, would be at once to destroy the means of its usefulness, and change the character designed for it by the framers of the constitution."

There was another consideration connected with this policy of distribution which the President did not name, and could not, in the decorum and reserve of an official communication to Congress: it was the intended effect of these distributions—to debauch the people with their own money, and to gain presidential votes by lavishing upon them the spoils of their country. To the honor of the people this intended effect never occurred; no one of those contriving these distributions ever reaching the high object of their ambition. Instead of distribution—instead of raising money from the people to be returned to the people, with all the deductions which the double operation of collecting and dividing would incur, and with the losses which unfaithful agents might inflict—instead of that idle and wasteful process, which would have been childish if it had not been vicious, he recommended a reduction of taxes on the comforts and necessaries of life, and the levy of no more money than was necessary for the economical administration of the government; and said:

"In reducing the revenue to the wants of the government, your particular attention is invited to those articles which constitute the necessaries of life. The duty on salt was laid as a war tax, and was no doubt continued to assist in providing for the payment of the war debt. There is no article the release of which from taxation would be felt so generally and so beneficially. To this may be added all kinds of fuel and provisions. Justice and benevolence unite in favor of releasing the poor of our cities from burdens which are not necessary to the support of our government, and tend only to increase the wants of the destitute."

The issuance of the "Treasury Circular" naturally claimed a place in the President's message; and received it. The President gave his reason for the measure in the necessity of saving the public domain from being exchanged for bank paper money, which was not wanted, and might be of little value or use when wanted; and expressed himself thus:

"The effects of an extension of bank credits, and over-issues of bank paper, have been strikingly illustrated in the sales of the public lands. From the returns made by the various registers and receivers in the early part of last summer

it was perceived that the receipts arising from the sales of the public lands, were increasing to an unprecedented amount. In effect, however, these receipts amounted to nothing more than credits in bank. The banks lent out their notes to speculators; they were paid to the receivers, and immediately returned to the banks, to be lent out again and again; being mere instruments to transfer to speculators the most valuable public land, and pay the government by a credit on the books of the banks. Those credits on the books of some of the western banks, usually called deposits, were already greatly beyond their immediate means of payment, and were rapidly increasing. Indeed each speculation furnished means for another; for no sooner had one individual or company paid in the notes, than they were immediately lent to another for a like purpose; and the banks were extending their business and their issues so largely, as to alarm considerate men, and render it doubtful whether these bank credits, if permitted to accumulate, would ultimately be of the least value to the government. The spirit of expansion and speculation was not confined to the deposit banks, but pervaded the whole multitude of banks throughout the Union, and was giving rise to new institutions to aggravate the evil. The safety of the public funds, and the interest of the people generally, required that these operations should be checked; and it became the duty of every branch of the general and State governments to adopt all legitimate and proper means to produce that salutary effect. Under this view of my duty, I directed the issuing of the order which will be laid before you by the Secretary of the Treasury, requiring payment for the public lands sold to be made in specie, with an exception until the 15th of the present month, in favor of actual settlers. This measure has produced many salutary consequences. It checked the career of the Western banks, and gave them additional strength in anticipation of the pressure which has since pervaded our Eastern as well as the European commercial cities. By preventing the extension of the credit system, it measurably cut off the means of speculation, and retarded its progress in monopolizing the most valuable of the public lands. It has tended to save the new States from a non-resident proprietorship, one of the greatest obstacles to the advancement of a new country, and the prosperity of an old one. It has tended to keep open the public lands for the entry of emigrants at government prices, instead of their being compelled to purchase of speculators at double or treble prices. And it is conveying into the interior large sums in silver and gold, there to enter permanently into the currency of the country, and place it on a firmer foundation. It is confidently believed that the country will find in the motives which induced that order, and the happy consequences which will have ensued, much to commend and nothing to condemn."

The people were satisfied with the Treasury Circular; they saw its honesty and good effects; but the politicians were not satisfied with it. They thought they saw in it a new exercise of illegal power in the President—a new tampering with the currency—a new destruction of the public prosperity; and commenced an attack upon it the moment Congress met, very much in the style of the attack upon the order for the removal of the deposits; and with fresh hopes from the resentment of the "thousand banks," whose notes had been excluded, and from the discontent of many members of Congress whose schemes of speculation had been balked. And notwithstanding the democratic majorities in the two Houses, the attack upon the "Circular" had a great success, many members being interested in the excluded banks, and partners in schemes for monopolizing the lands. A bill intended to repeal the Circular was actually passed through both Houses; but not in direct terms. That would have been too flagrant. It was a bad thing, and could not be fairly done, and therefore gave rise to indirection and ambiguity of provisions, and complication of phrases, and a multiplication of amphibologies, which brought the bill to a very ridiculous conclusion when it got to the hands of General Jackson But of this hereafter.

The intrusive efforts made by politicians and missionaries, first, to prevent treaties from being formed with the Indians to remove from the Southern States, and then to prevent the removal after the treaties were made, led to serious refusals on the part of some of these tribes to emigrate; and it became necessary to dispatch officers of high rank and reputation, with regular troops, to keep down outrages and induce peaceable removal. Major General Jesup was sent to the Creek nation, where he had a splendid success in a speedy and bloodless accomplishment of his object. Major General Scott was sent to the Cherokees, where a pertinacious resistance was long encountered, but eventually and peaceably overcome. The Seminole hostilities in Florida were just breaking out; and the President, in his message, thus notices all these events:

"The military movements rendered necessary by the aggressions of the hostile portions of the Seminole and Creek tribes of Indians, and by other circumstances, have required the active

employment of nearly our whole regular force, including the marine corps, and of large bodies of militia and volunteers. With all these events, so far as they were known at the seat of government before the termination of your last session, you are already acquainted; and it is therefore only needful in this place to lay before you a brief summary of what has since occurred. The war with the Seminoles during the summer was, on our part, chiefly confined to the protection of our frontier settlements from the incursions of the enemy; and, as a necessary and important means for the accomplishment of that end, to the maintenance of the posts previously established. In the course of this duty several actions took place, in which the bravery and discipline of both officers and men were conspicuously displayed, and which I have deemed it proper to notice in respect to the former, by the granting of brevet rank for gallant services in the field. But as the force of the Indians was not so far weakened by these partial successes as to lead them to submit, and as their savage inroads were frequently repeated, early measures were taken for placing at the disposal of Governor Call, who, as commander-in-chief of the territorial militia, had been temporarily invested with the command, an ample force, for the purpose of resuming offensive operations in the most efficient manner, so soon as the season should permit. Major General Jesup was also directed, on the conclusion of his duties in the Creek country, to repair to Florida, and assume the command. Happily for the interests of humanity, the hostilities with the Creeks were brought to a close soon after your adjournment, without that effusion of blood, which at one time was apprehended as inevitable. The unconditional submission of the hostile party was followed by their speedy removal to the country assigned them west of the Mississippi. The inquiry as to the alleged frauds in the purchase of the reservations of these Indians, and the causes of their hostilities, requested by the resolution of the House of Representatives of the 1st of July last to be made by the President, is now going on, through the agency of commissioners appointed for that purpose. Their report may be expected during your present session. The difficulties apprehended in the Cherokee country have been prevented, and the peace and safety of that region and its vicinity effectually secured, by the timely measures taken by the war department, and still continued."

The Bank of the United States was destined to receive another, and a parting notice from General Jackson, and greatly to its further discredit, brought upon it by its own lawless and dishonest course. Its charter had expired, and it had delayed to refund the stock paid for by the United States, or to pay the back dividend; and had transferred itself with all its effects, and all its subscribers except the United States, to a new corporation, under the same name, created by a *proviso* to a road bill in the General Assembly of Pennsylvania, obtained by bribery, as subsequent legislative investigation proved. This transfer, or transmigration, was a new and most amazing procedure. The metempsychosis of a bank was a novelty which confounded and astounded the senses, and set the wits of Congress to work to find out how it could legally be done. The President, though a good lawyer and judge of law, did not trouble himself with legal subtleties and disquisitions. He took the broad, moral, practical, business view of the question; and pronounced it to be dishonest, unlawful, and irresponsible; and recommended to Congress to look after its stock. The message said:

"The conduct and present condition of that bank, and the great amount of capital vested in it by the United States, require your careful attention. Its charter expired on the third day of March last, and it has now no power but that given in the 21st section, 'to use the corporate name, style, and capacity, for the purpose of suits, for the final settlement and liquidation of the affairs and accounts of the corporation, and for the sale and disposition of their estate, real, personal, and mixed, and not for any other purpose, or in any other manner whatsoever, nor for a period exceeding two years after the expiration of the said term of incorporation.' Before the expiration of the charter, the stockholders of the bank obtained an act of incorporation from the legislature of Pennsylvania, excluding only the United States. Instead of proceeding to wind up their concerns, and pay over to the United States the amount due on account of the stock held by them, the president and directors of the old bank appear to have transferred the books, papers, notes, obligations, and most or all of its property, to this new corporation, which entered upon business as a continuation of the old concern. Amongst other acts of questionable validity, the notes of the expired corporation are known to have been used as its own, and again put in circulation. That the old bank had no right to issue or reissue its notes after the expiration of its charter, cannot be denied; and that it could not confer any such right on its substitute, any more than exercise it itself, is equally plain. In law and honesty, the notes of the bank in circulation, at the expiration of its charter, should have been called in by public advertisement, paid up as presented, and, together with those on hand, cancelled and destroyed. Their re-issue is sanctioned by no law, and warranted by no necessity. If the United States be responsible in their stock for the payment of these notes, their re-issue by the new

corporation, for their own profit, is a fraud on the government. If the United States is not responsible, then there is no legal responsibility in any quarter, and it is a fraud on the country. They are the redeemed notes of a dissolved partnership, but, contrary to the wishes of the retiring partner, and without his consent, are again re-issued and circulated. It is the high and peculiar duty of Congress to decide whether any further legislation be necessary for the security of the large amount of public property now held and in use by the new bank, and for vindicating the rights of the government, and compelling a speedy and honest settlement with all the creditors of the old bank, public and private, or whether the subject shall be left to the power now possessed by the executive and judiciary. It remains to be seen whether the persons, who, as managers of the old bank, undertook to control the government, retained the public dividends, shut their doors upon a committee of the House of Representatives, and filled the country with panic to accomplish their own sinister objects, may now, as managers of a new Bank, continue with impunity to flood the country with a spurious currency, use the seven millions of government stock for their own profit, and refuse to the United States all information as to the present condition of their own property, and the prospect of recovering it into their own possession. The lessons taught by the bank of the United States cannot well be lost upon the American people. They will take care never again to place so tremendous a power in irresponsible hands, and it will be fortunate if they seriously consider the consequences which are likely to result on a smaller scale from the facility with which corporate powers are granted by their State government."

This novel and amazing attempt of the bank to transmigrate into the body of another bank with all its effects, was a necessity of its position—the necessity which draws a criminal to even insane acts to prevent the detection, exposure, and ruin from which guilt recoils in not less guilty contrivances. The bank was broken, and could not wind up, and wished to postpone, or by chance avert the dreaded discovery. It was in the position of a glass vase, cracked from top to bottom, and ready to split open if touched, but looking as if whole while sitting unmoved on the shelf. The great bank was in this condition, and therefore untouchable, and saw no resource except in a metempsychosis—a difficult process for a soulless institution—and thereby endeavoring to continue its life without a change of name, form, or substance. The experiment was a catastrophe, as might have been expected beforehand; and as was soon seen afterwards.

The injury resulting to the public service from the long delay in making the appropriations at the last session—delayed while occupied with distribution bills until the season for labor had well passed away. On this point the message said:

"No time was lost, after the making of the requisite appropriations, in resuming the great national work of completing the unfinished fortifications on our seaboard, and of placing them in a proper state of defence. In consequence, however, of the very late day at which those bills were passed, but little progress could be made during the season which has just closed. A very large amount of the moneys granted at your last session accordingly remains unexpended; but as the work will be again resumed at the earliest moment in the coming spring, the balance of the existing appropriations, and, in several cases which will be laid before you, with the proper estimates, further sums for the like objects, may be usefully expended during the next year."

Here was one of the evils of dividing the public money, and of factious opposition to the government. The session of 1834—'5 had closed without a dollar for the military defences, leaving half finished works unfinished, and finished works unarmed; and that in the presence of a threatening collision with France; and at the subsequent session of 1835–6, the appropriations were not made until the month of July and when they could not be used or applied.

Scarcely did the railroad system begin to spread itself along the highways of the United States than the effects of the monopoly and extortion incident to moneyed corporations, began to manifest itself in exorbitant demands for the transportation of the mails, and in capricious refusals to carry them at all except on their own terms. President Jackson was not the man to submit to an imposition, or to capitulate to a corporation. He brought the subject before Congress, and invited particular attention to it in a paragraph of his message; in which he said:

"Your particular attention is invited to the subject of mail contracts with railroad companies. The present laws providing for the making of contracts are based upon the presumption that competition among bidders will secure the service at a fair price. But on most of the rail road lines there is no competition in that kind of transportation, and advertising is therefore useless. No contract can now be made with them, except such as shall be negotiated before

the time of offering or afterwards, and the power of the Postmaster-general to pay them high prices is, practically, without limitation. It would be a relief to him, and no doubt would conduce to the public interest, to prescribe by law some equitable basis upon which such contracts shall rest, and restrict him by a fixed rule of allowance. Under a liberal act of that sort, he would undoubtedly be able to secure the services of most of the railroad companies, and the interest of the Department would be thus advanced."

The message recommended a friendly supervision over the Indian tribes removed to the West of the Mississippi, with the important suggestion of preventing intestine war by military interference, as well as improving their condition by all the usual means. On these points, it said:

"The national policy, founded alike in interest and in humanity, so long and so steadily pursued by this government, for the removal of the Indian tribes originally settled on this side of the Mississippi, to the west of that river, may be said to have been consummated by the conclusion of the late treaty with the Cherokees. The measures taken in the execution of that treaty, and in relation to our Indian affairs generally, will fully appear by referring to the accompanying papers. Without dwelling on the numerous and important topics embraced in them, I again invite your attention to the importance of providing a well-digested and comprehensive system for the protection, supervision and improvement of the various tribes now planted in the Indian country. The suggestions submitted by the commissioner of Indian affairs, and enforced by the secretary, on this subject, and also in regard to the establishment of additional military posts in the Indian country, are entitled to your profound consideration. Both measures are necessary for the double purpose of protecting the Indians from intestine war, and in other respects complying with our engagements to them, and of securing our Western frontier against incursions, which otherwise will assuredly be made on it. The best hopes of humanity, in regard to the aboriginal race, the welfare of our rapidly extending settlements, and the honor of the United States, are all deeply involved in the relations existing between this government and the emigrating tribes. I trust, therefore, that the various matters submitted in the accompanying documents, in respect to those relations, will receive your early and mature deliberation; and that it may issue in the adoption of legislative measures adapted to the circumstances and duties of the present crisis."

This suggestion of preventing intestine wars (as they are called) in the bosoms of the tribes, is founded equally in humanity to the Indians and duty to ourselves. Such wars are nothing but massacres, assassinations and confiscations. The stronger party oppress a hated, or feared minority or chief; and slay with impunity (in some of the tribes), where the assumption of a form of government, modelled after that of the white race, for which they have no capacity, gives the justification of executions to what is nothing but revenge and assassination. Under their own ancient laws, of blood for blood, and for the slain to avenge the wrong, this liability of personal responsibility restrained the killings to cases of public justifiable necessity. Since the removal of that responsibility, revenge, ambition, plunder, take their course: and the consequence is a series of assassinations which have been going on for a long time; and still continue. To aggravate many of these massacres, and to give their victims a stronger claim upon the protection of the United States, they are done upon those who are friends to the United States, upon accusations of having betrayed the interest of the tribe in some treaty for the sale of lands. The United States claim jurisdiction over their country, and exercise it in the punishment of some classes of criminals; and it would be good to extend it to the length recommended by President Jackson.

The message would have been incomplete without a renewal of the standing recommendation to take the presidential election out of the hands of intermediate bodies, and give it directly to the people. He earnestly urged an amendment to the constitution to that effect; but that remedy being of slow, difficult, and doubtful attainment, the more speedy process by the action of the people becomes the more necessary. Congressional caucuses were put down by the people in the election of 1824: their substitute and successor—national conventions—ruled by a minority, and managed by intrigue and corruption. are about as much worse than a Congress caucus as Congress itself would be if the members appointed, or contrived the appointment, of themselves, instead of being elected by the people. The message appropriately concluded with thanks to the people for the high honors to which they had lifted him, and their support under arduous circumstances, and said:

"Having now finished the observations deemed proper on this, the last occasion I shall have of communicating with the two Houses of Con-

gress at their meeting, I cannot omit an expression of the gratitude which is due to the great body of my fellow citizens, in whose partiality and indulgence I have found encouragement and support in the many difficult and trying scenes through which it has been my lot to pass during my public career. Though deeply sensible that my exertions have not been crowned with a success corresponding to the degree of favor bestowed upon me, I am sure that they will be considered as having been directed by an earnest desire to promote the good of my country; and I am consoled by the persuasion that whatever errors have been committed will find a corrective in the intelligence and patriotism of those who will succeed us. All that has occurred during my administration is calculated to inspire me with increased confidence in the stability of our institutions, and should I be spared to enter upon that retirement which is so suitable to my age and infirm health, and so much desired by me in other respects, I shall not cease to invoke that beneficent Being to whose providence we are already so signally indebted for the continuance of his blessings on our beloved country."

CHAPTER CLIV.

FINAL REMOVAL OF THE INDIANS.

At the commencement of the annual session of 1836–'37, President Jackson had the gratification to make known to Congress the completion of the long-pursued policy of removing all the Indians in the States, and within the organized territories of the Union, to their new homes west of the Mississippi. It was a policy commencing with Jefferson, pursued by all succeeding Presidents, and accomplished by Jackson. The Creeks and Cherokees had withdrawn from Georgia and Alabama; the Chickasaws and Choctaws from Mississippi and Alabama; the Seminoles had stipulated to remove from Florida; Louisiana, Arkansas and Missouri had all been relieved of their Indian population; Kentucky and Tennessee, by earlier treaties with the Chickasaws, had received the same advantage. This freed the slave States from an obstacle to their growth and prosperity, and left them free to expand, and to cultivate, to the full measure of their ample boundaries. All the free Atlantic States had long been relieved from their Indian populations, and in this respect the northern and southern States were now upon an equality. The result has been proved to be, what it was then believed it would be, beneficial to both parties; and still more so to the Indians than to the whites. With them it was a question of extinction, the time only the debatable point. They were daily wasting under contact with the whites, and had before their eyes the eventual but certain fate of the hundreds of tribes found by the early colonists on the Roanoke, the James River, the Potomac, the Susquehannah, the Delaware, the Connecticut, the Merrimac, the Kennebec and the Penobscot. The removal saved the southern tribes from that fate; and in giving them new and unmolested homes beyond the verge of the white man's settlement, in a country temperate in climate, fertile in soil, adapted to agriculture and to pasturage, with an outlet for hunting, abounding with salt water and salt springs—it left them to work out in peace the problem of Indian civilization. To all the relieved States the removal of the tribes within their borders was a great benefit—to the slave States transcendently and inappreciably great. The largest tribes were within their limits, and the best of their lands in the hands of the Indians, to the extent, in some of the States, as Georgia, Alabama and Mississippi, of a third or a quarter of their whole area. I have heretofore shown, in the case of the Creeks and the Cherokees in Georgia, that the ratification of the treaties for the extinction of Indian claims within her limits, and which removed the tribes which encumbered her, received the cordial support of northern senators; and that, in fact, without that support these great objects could not have been accomplished. I have now to say the same of all the other slave States. They were all relieved in like manner. Chickasaws and Choctaws in Mississippi and Alabama; Chickasaw claims in Tennessee and Kentucky; Seminoles in Florida; Caddos and Quapaws in Louisiana and in Arkansas; Kickapoos, Delawares, Shawnees, Osages, Iowas, Pinkeshaws, Weas, Peorias, in Missouri; all underwent the same process, and with the came support and result. Northern votes, in the Senate, came to the ratification of every treaty, and to the passage of every necessary appropriation act in the House of Representatives. Northern men may be said to have made the treaties, and passed the acts, as without their aid it could not have been done, constituting, as they did, a large majority

in the House, and being equal in the Senate, where a vote of two-thirds was wanting. I do not go over these treaties and laws one by one, to show their passage, and by what votes. I did that in the case of the Creek treaty and the Cherokee treaty, for the removal of these tribes from Georgia; and showed that the North was unanimous in one case, and nearly so in the other, while in both treaties there was a southern opposition, and in one of them (the Cherokee), both Mr. Calhoun and Mr. Clay in the negative: and these instances may stand for an illustration of the whole. And thus the area of slave population has been almost doubled in the slave States, by sending away the Indians to make room for their expansion; and it is unjust and cruel—unjust and cruel in itself, independent of the motive—to charge these Northern States with a design to abolish slavery in the South. If they had harbored such design—if they had been merely unfriendly to the growth and prosperity of these Southern States, there was an easy way to have gratified their feelings, without committing a breach of the constitution, or an aggression or encroachment upon these States: they had only to sit still and vote against the ratification of the treaties, and the enactment of the laws which effected this great removal. They did not do so—did not sit still and vote against their Southern brethren. On the contrary, they stood up and spoke aloud, and gave to these laws and treaties an effective and zealous support. And I, who was the Senate's chairman of the committee of Indian affairs at this time, and know how these things were done, and who was so thankful for northern help at the time; I, who know the truth and love justice, and cherish the harmony and union of the American people, feel it to be my duty and my privilege to note this great act of justice from the North to the South, to stand in history as a perpetual contradiction of all imputed design in the free States to abolish slavery in the slave States. I speak of States, not of individuals or societies.

I have shown that this policy of the universal removal of the Indians from the East to the West of the Mississippi originated with Mr. Jefferson, and from the most humane motives, and after having seen the extinction of more than forty tribes in his own State of Virginia; and had been followed up under all subsequent administrations. With General Jackson it was nothing but the continuation of an established policy, but one in which he heartily concurred, and of which his local position and his experience made him one of the safest of judges; but, like every other act of his administration, it was destined to obloquy and opposition, and to misrepresentations, which have survived the object of their creation, and gone into history. He was charged with injustice to the Indians, in not protecting them against the laws and jurisdiction of the States; with cruelty, in driving them away from the bones of their fathers; with robbery, in taking their lands for paltry considerations. Parts of the tribes were excited to resist the execution of the treaties, and it even became necessary to send troops and distinguished generals—Scott to the Cherokees, Jesup to the Creeks—to effect their removal; which, by the mildness and steadiness of these generals, and according to the humane spirit of their orders, was eventually accomplished without the aid of force. The outcry raised against General Jackson, on account of these measures, reached the ears of the French traveller and writer on American democracy (De Tocqueville), then sojourning among us and collecting materials for his work, and induced him to write thus in his chapter 18:

"The ejectment of the Indians very often takes place, at the present day, in a regular, and, as it were, legal manner. When the white population begins to approach the limit of a desert inhabited by a savage tribe, the government of the United States usually dispatches envoys to them, who assemble the Indians in a large plain, and having first eaten and drunk with them, accost them in the following manner: 'What have you to do in the land of your fathers? Before long you must dig up their bones in order to live. In what respect is the country you inhabit better than another? Are there no woods, marshes or prairies, except where you dwell? and can you live nowhere but under your own sun? Beyond those mountains, which you see at the horizon—beyond the lake which bounds your territory on the west—there lie vast countries where beasts of chase are found in great abundance. Sell your lands to us, and go and live happily in those solitudes.'

"After holding this language, they spread before the eyes of the Indians fire-arms, woollen garments, kegs of brandy, glass necklaces, bracelets of tinsel, ear-rings, and looking-glasses. If, when they have beheld all these riches, they still hesitate, it is insinuated that they have not the means of refusing their required consent,

and that the government itself will not long have the power of protecting them in their rights. What are they to do? Half convinced, half compelled, they go to inhabit new deserts, where the importunate whites will not permit them to remain ten years in tranquillity. In this manner do the Americans obtain, at a very low price, whole provinces, which the richest sovereigns in Europe could not purchase."

The Grecian Plutarch deemed it necessary to reside forty years in Rome, to qualify himself to write the lives of some Roman citizens; and then made mistakes. European writers do not deem it necessary to reside in our country at all in order to write our history. A sojourn of some months in the principal towns—a rapid flight along some great roads—the gossip of the steamboat, the steam-car, the stage-coach, and the hotel—the whispers of some earwigs—with the reading of the daily papers and the periodicals, all more or less engaged in partisan warfare—and the view of some debates, or scene, in Congress, which may be an exception to its ordinary decorum and intelligence: these constitute a modern European traveller's qualifications to write American history. No wonder that they commit mistakes, even where the intent is honest. And no wonder that Mons. de Tocqueville, with admitted good intentions, but with no "forty years" residence among us, should be no exception to the rule which condemns the travelling European writer of American history to the compilation of facts manufactured for partisan effect, and to the invention of reasons supplied from his own fancy. I have already had occasion, several times, to correct the errors of Mons. de Tocqueville. It is a compliment to him, implicative of respect, and by no means extended to others, who err more largely, and of purpose, but less harmfully. His error in all that he has here written is profound! and is injurious, not merely to General Jackson, to whom his mistakes apply, but to the national character, made up as it is of the acts of individuals; and which character it is the duty of every American to cherish and exalt in all that is worthy, and to protect and defend from all unjust imputation. It was in this sense that I marked this passage in De Tocqueville for refutation as soon as his book appeared, and took steps to make the contradiction (so far as the alleged robbery and cheating of the Indians was concerned) authentic and complete and as public and durable as the archives of the government itself. In this sense I had a call made for a full, numerical, chronological and official statement of all our Indian purchases, from the begining of the federal government in 1789 to that day, 1840—tribe by tribe, cession by cession, year by year—for the fifty years which the government had existed; with the number of acres acquired at each cession, and the amount paid for each.

The call was made in the Senate of the United States, and answered by document No. 616, 1st session, 26th Congress, in a document of thirteen printed tabular pages, and authenticated by the signatures of Mr. Van Buren, President; Mr. Poinsett, Secretary at War; and Mr. Hartley Crawford, Commissioner of Indian Affairs. From this document it appeared, that the United States had paid to the Indians eighty-five millions of dollars for land purchases up to the year 1840! to which five or six millions may be added for purchases since—say ninety millions. This is near six times as much as the United States gave the great Napoleon for Louisiana, the whole of it, soil and jurisdiction; and nearly three times as much as all three of the great foreign purchases—Louisiana, Florida and California—cost us! and that for soil alone, and for so much as would only be a fragment of Louisiana or California. Impressive as this statement is in the gross, it becomes more so in the detail, and when applied to the particular tribes whose imputed sufferings have drawn so mournful a picture from Mons. de Tocqueville. These are the four great southern tribes—Creeks, Cherokees, Chickasaws and Choctaws. Applied to them, and the table of purchases and payments stands thus: To the Creek Indians twenty-two millions of dollars for twenty-five millions of acres; which is seven millions more than was paid France for Louisiana, and seventeen millions more than was paid Spain for Florida. To the Choctaws, twenty-three millions of dollars (besides reserved tracts), for twenty millions of acres, being three millions more than was paid for Louisiana and Florida. To the Cherokees, for eleven millions of acres, was paid about fifteen millions of dollars, the exact price of Louisana or California. To the Chickasaws, the whole net amount for which this country sold under the land system of the United States, and by the United States land

officers, three millions of dollars for six and three-quarter millions of acres, being the way the nation chose to dispose of it. Here are fifty-six millions to four tribes, leaving thirty millions to go to the small tribes whose names are unknown to history, and which it is probable the writer on American democracy had never heard of when sketching the picture of their fancied oppressions.

I will attend to the case of these small remote tribes, and say that, besides their proportion of the remaining thirty-six millions of dollars, they received a kind of compensation suited to their condition, and intended to induct them into the comforts of civilized life. Of these I will give one example, drawn from a treaty with the Osages, in 1839; and which was only in addition to similar benefits to the same tribe, in previous treaties, and which were extended to all the tribes which were in the hunting state. These benefits were, to these Osages, two blacksmith's shops, with four blacksmiths, with five hundred pounds of iron and sixty pounds of steel annually; a grist and a saw mill, with millers for the same; 1,000 cows and calves; two thousand breeding swine; 1,000 ploughs; 1,000 sets of horse-gear; 1,000 axes; 1,000 hoes; a house each for ten chiefs, costing two hundred dollars apiece; to furnish these chiefs with six good wagons, sixteen carts, twenty-eight yokes of oxen, with yokes and log-chain; to pay all claims for injuries committed by the tribe on the white people, or on other Indians, to the amount of thirty thousand dollars; to purchase their reserved lands at two dollars per acre; three thousand dollars to reimburse that sum for so much deducted from their annuity, in 1825, for property taken from the whites, and since returned; and, finally, three thousand dollars more for an imputed wrongful withholding of that amount, for the same reason, in the annuity payment of the year 1829. In previous treaties, had been given seed grains, and seed vegetables, with fruit seeds and fruit trees; domestic fowls; laborers to plough up their ground and to make their fences, to raise crops and to save them, and teach the Indians how to farm; with spinning, weaving, and sewing implements, and persons to show their use. Now, all this was in one single treaty, with an inconsiderable tribe, which had been largely provided for in the same way in six different previous treaties! And all the rude tribes —those in the hunting state, or just emerging from it—were provided for in the same manner, the object of the United States being to train them to agriculture and pasturage—to conduct them from the hunting to the pastoral and agricultural state; and for that purpose, and in addition to all other benefits, are to be added the support of schools, the encouragement of missionaries, and a small annual contribution to religious societies who take charge of their civilization.

Besides all this, the government keeps up a large establishment for the special care of the Indians, and the management of their affairs; a special bureau, presided over by a commissioner at Washington City; superintendents in different districts; agents, sub-agents, and interpreters, resident with the tribe; and all charged with seeing to their rights and interests—seeing that the laws are observed towards them; that no injuries are done them by the whites; that none but licensed traders go among them; that nothing shall be bought from them which is necessary for their comfort, nor any thing sold to them which may be to their detriment. Among the prohibited articles are spirits of all kinds; and so severe are the penalties on this head, that forfeiture of the license, forfeiture of the whole cargo of goods, forfeiture of the penalty of the bond, and immediate suit in the nearest federal court for its recovery, expulsion from the Indian country, and disability for ever to acquire another license, immediately follow every breach of the laws for the introduction of the smallest quantity of any kind of spirits. How unfortunate, then, in M. de Tocqueville to write, that kegs of brandy are spread before the Indians to induce them to sell their lands! How unfortunate in representing these purchases to be made in exchange for woollen garments, glass necklaces, tinsel bracelets, ear-rings, and looking-glasses! What a picture this assertion of his makes by the side of the eighty-five millions of dollars at that time actually paid to those Indians for their lands, and the long and large list of agricultural articles and implements—long and large list of domestic animals and fowls—the ample supply of mills and shops, with mechanics to work them and teach their use—the provisions for schools and missionaries, for building fences and houses—which are found in the Osage treaty

quoted, and which are to be found, more or less, in every treaty with every tribe emerging from the hunter state. The fact is, that the government of the United States has made it a fixed policy to cherish and protect the Indians, to improve their condition, and turn them to the habits of civilized life; and great is the wrong and injury which the mistake of this writer has done to our national character abroad, in representing the United States as cheating and robbing these children of the forest.

But Mons. de Tocqueville has quoted names and documents, and particular instances of imposition upon Indians, to justify his picture; and in doing so has committed the mistakes into which a stranger and sojourner may easily fall. He cites the report of Messrs. Clark and Cass, and makes a wrong application—an inverted application—of what they reported. They were speaking of the practices of disorderly persons in trading with the Indians for their skins and furs. They were reporting to the government an abuse, for correction and punishment. They were not speaking of United States commissioners, treating for the purchase of lands, but of individual traders, violating the laws. They were themselves those commissioners and superintendents of Indian affairs, and governors of Territories, one for the northwest, in Michigan, the other for the far west, in Missouri; and both noted for their justice and humanity to the Indians, and for their long and careful administration of their affairs within their respective superintendencies. Mons. de Tocqueville has quoted their words correctly, but with the comical blunder of reversing their application, and applying to the commissioners themselves, in their land negotiations for the government, the cheateries which they were denouncing to the government, in the illicit traffic of lawless traders. This was the comic blunder of a stranger: yet this is to appear as American history in Europe, and to be translated into our own language at home, and commended in a preface and notes.

CHAPTER CLV.

RECISION OF THE TREASURY CIRCULAR.

IMMEDIATELY upon the opening of the Senate and the organization of the body, Mr. Ewing, of Ohio, gave notice of his intention to move a joint resolution to rescind the treasury circular; and on hearing the notice, Mr. Benton made it known that he would oppose the resolution at the second reading—a step seldom resorted to, except when the measure to be so opposed is deemed too flagrantly wrong to be entitled to the honor of rejection in the usual forms of legislation. The debate came on promptly, and upon the lead of the mover of the resolution, in a prepared and well-considered speech, in which he said:

"This extraordinary paper was issued by the Secretary of the Treasury on the 11th of July last, in the form of a circular to the receivers of public money in the several land offices in the United States, directing them, after the 15th of August then next, to receive in payment for public lands nothing but gold and silver and certificates of deposits, signed by the Treasurer of the United States, with a saving in favor of actual settlers, and bona fide residents in the State in which the land happened to lie. This saving was for a limited time, and expires, I think, to-morrow. The professed object of this order was to check the speculations in public lands; to check excessive issues of bank paper in the West, and to increase the specie currency of the country; and the necessity of the measure was supported, or pretended to be supported, by the opinions of members of this body and the other branch of Congress. But, before I proceed to examine in detail this paper, its character, and its consequences, I will briefly advert to the state of things out of which it grew. I am confident, and I believe I can make the thing manifest, that the avowed objects were not the only, nor even the leading objects for which this order was framed; they may have influenced the minds of some who advised it, but those who planned, and those who at last virtually executed it, were governed by other and different motives, which I shall proceed to explain. It was foreseen, prior to the commencement of the last session of Congress, that there would be a very large surplus of money in the public treasury beyond the wants of the country for all their reasonable expenditures. It was also well understood that the land bill, or some other measure for the distribution of this fund, would be again presented to Congress; and, if the true

condition of the public sentiment were known and understood, that its distribution, in some form or other, would be demanded by the country. On the other hand, it seems to have been determined by the party, and some of those who act with it thoroughly, that the money should remain where it was in the deposit banks, so that it could be wielded at pleasure by the executive. This order grew out of the contest to which I have referred. It was issued not by the advice of Congress or under the sanction of any law. It was delayed until Congress was fairly out of the city, and all possibility of interference by legislation was removed; and then came forth this new and last expedient. It was known that these funds, received for public lands, had become a chief source of revenue, and it may have occurred to some that the passage of a treasury order of this kind would have a tendency to embarrass the country; and as the bill for the regulation of the deposits had just passed, the public might be brought to believe that all the mischief occasioned by the order was the effect of the distribution bill. It has, indeed, happened, that this scheme has failed; the public understand it rightly, but that was not by any means certain at the time the measure was devised. It was not then foreseen that the people would as generally see through the contrivance as it has since been found that they do. There may have been various other motives which led to the measure. Many minds were probably to be consulted; for it is not to be presumed that a step like this was taken without consultation, and guided by the will of a single individual alone. That is not the way in which these things are done. No doubt one effect hoped for by some was, that a check would be put to the sales of the public lands. The operation of the order would naturally be, to raise the price of land by raising the price of the currency in which it was to be paid for. But, while this would be the effect on small buyers, those who purchased on a large scale would be enabled to sell at an advance of ten or fifteen per cent. over what would have been given if the United States lands had been open to purchasers in the ordinary way. Those who had borrowed money of the deposit banks and paid it out for lands, would thus be enabled to make sales to advantage; and by means of such sales make payment to the banks who found it necessary to call in their large loans, in order to meet the provisions of the deposit bill. The order, therefore, was likely to operate to the common benefit of the deposit banks and the great land dealers, while it counteracted the effect of the obnoxious deposit bill. There may have been yet another motive actuating some of those who devised this order. There was danger that the deposit banks, when called upon to refund the public treasure, would be unable to do it: indeed, it was said on this floor that the immediate effect of the distribution bill would be to break those banks. Now this treasury order would operate to collect the specie of the country into the land offices, whence it would immediately go into the deposit banks, and would prove an acceptable aid to them while making the transfers required by law. These seem to me to have been among the real motives which led to the adoption of that order."

Mr. Ewing then argued at length against the legality of the treasury circular, quoting the joint resolution of 1816, and insisting that its provisions had been violated; also insisting on the largeness of the surplus, and that it had turned out to be much larger than was admitted by the friends of the administration; which latter assertion was in fact true, because the appropriations for the public service (the bills for which were in the hands of the opposition members) had been kept off till the middle of the summer, and could not be used; and so left some fifteen millions in the treasury of appropriated money which fell under the terms of the deposit act, and became divisible as surplus.

Mr. Benton replied to Mr. Ewing, saying:

"In the first of these objects the present movement is twin brother to the famous resolution of 1833, but without its boldness; for that resolution declared its object upon its face, while this one eschews specification, and insidiously seeks a judgment of condemnation by inference and argument. In the second of these objects every body will recognize the great design of the second branch of the same famous resolution of 1833, which, in the restoration of the deposits to the Bank of the United States, clearly went to the establishment of the paper system, and its supremacy over the federal government. The present movement, therefore, is a second edition of the old one, but a lame and impotent affair compared to that. Then, we had a magnificent panic; now, nothing but a miserable starveling! For though the letter of the president of the Bank of the United States announced, early in November, that the meeting of Congress was the time for the new distress to become intense, yet we are two weeks deep in the session, and no distress memorial, no distress deputation, no distress committees, to this hour! Nothing, in fact, in that line, but the distress speech of the gentleman from Ohio [Mr. Ewing]; so that the new panic of 1836 has all the signs of being a lean and slender affair—a mere church-mouse concern—a sort of dwarfish, impish imitation of the gigantic spectre which stalked through the land in 1833."

Mr. Benton then showed that this subaltern and Lilliputian panic was brought upon the stage in the same way, and by the same managers, with its gigantic brother of 1833–'34; and quoted from

a published letter of Mr. Biddle in November preceding, and a public speech of Mr. Clay in the month of September preceding, in which they gave out the programme for the institution of the little panic; and the proceeding against the President for violating the laws; and against the treasury order itself as the cause of the new distress. Mr. Biddle in his publication said: "Our pecuniary condition seems to be a strange anomaly. When Congress adjourned, it left the country with abundant crops, and high prices for them—with every branch of industry flourishing, and with more specie than we ever had before—with all the elements of universal prosperity. None of these have undergone the slightest change; yet, after a few months, Congress will re-assemble, and find the whole country suffering intense pecuniary distress. The occasion of this, and the remedy for it, will occupy our thoughts. In my judgment, the main cause of it is the mismanagement of the revenue—mismanagement in two respects: the mode of executing the distribution law, and the order requiring specie for the payment of the public lands—an act which seems to me a most wanton abuse of power, if not a flagrant usurpation. The remedy follows the causes of the evils. The first measure of relief, therefore, should be the instant repeal of the treasury order requiring specie for lands; the second, the adoption of a proper system to execute the distribution law. These measures would restore confidence in twenty-four hours, and repose in at least as many days. If the treasury will not adopt them voluntarily, Congress should immediately command it." This was the recommendation, or mandate, of the president of the Bank of the United States, still acting as a part of the national legislative power even in its new transformation, and keeping an eye upon that distribution which Congress passed as a deposit, which he had recommended as raising the price of the State stocks held by the bank; and the delay in the delivery of which he considers as one of the causes which had brought on the new distress. Mr. Clay in his Lexington speech had taken the same grounds; and speaking of the continued tampering with the currency by the administration, went on to say:

"One rash, lawless, and crude experiment succeeds another. He considered the late treasury order, by which all payments for public lands were to be in specie, with one exception, for a short duration, a most ill-advised, illegal, and pernicious measure. In principle it was wrong in practice it will favor the very speculation which it professes to endeavor to suppress. The officer who issued it, as if conscious of its obnoxious character, shelters himself behind the name of the President. But the President and Secretary had no right to promulgate any such order. The law admits of no such discrimination. If the resolution of the 30th of April, 1816, continued in operation (and the administration on the occasion of the removal of the deposits, and on the present occasion, relies upon it as in full force), it gave the Secretary no such discretion as he has exercised. That resolution required and directed the Secretary of the Treasury to adopt such measures as he might deem necessary, 'to cause, as soon as may be, all duties, taxes, debts, or sums of money, accruing or becoming payable to the United States, to be collected and paid in the legal currency of the United States, or treasury notes, or notes of the Bank of the United States, as by law provided and declared, or in notes of banks which are payable and paid on demand, in said legal currency of the United States.' This resolution was restrictive and prohibitory upon the Secretary only as to the notes of banks not redeemable in specie on demand. As to all such notes, he was forbidden to receive them from and after the 20th of February, 1817. As to the notes of banks which were payable and paid on demand in specie, the resolution was not merely permissive, it was compulsory and mandatory. He was bound, and is yet bound, to receive them, until Congress interfere."

Mr. Benton replied to the arguments of Mr. Ewing, the letter of Mr. Biddle, and the speech of Mr. Clay; and considered them all as identical, and properly answered in the lump, without, special reference to the co-operating assailants. On the point of the alleged illegality of the treasury order, he produced the Joint Resolution of 1816 under which it was done; and then said:

"This is the law, and nothing can be plainer than the right of selection which it gives to the Secretary of the Treasury. Four different *media* are mentioned in which the revenue may be collected, and the Secretary is made the actor, the agent, and the power, by which the collection is to be effected. He is to do it in one, or in another. He may choose several, or all, or two, or one. All are in the disjunctive. No two are joined together, but all are disjoined, and presented to him individually and separately. It is clearly the right of the Secretary to order the collections to be made in either of the four *media* mentioned. That the resolution is not mandatory in

favor of any one of the four, is obvious from the manner in which the notes of the Bank of the United States are mentioned. They were to be received as then provided for by law; for the bank charter had then just passed; and the 14th section had provided for the reception of the notes of this institution until Congress, by law, should direct otherwise. The right of the institution to deliver its notes in payment of the revenue, was anterior to this resolution, and always held under that 14th section, never under this joint resolution, and when that section was repealed at the last session of this Congress, that right was admitted to be gone, and has never been claimed since. The words of the law are clear; the practice under it has been uniform and uninterrupted from the date of its passage to the present day. For twenty years, and under three Presidents, all the Secretaries of the Treasury have acted alike. Each has made selections, permitting the notes of some specie-paying banks to be received, and forbidding others. Mr. Crawford did it in numerous instances; and fierce and universal as were the attacks upon that eminent patriot, during the presidential canvass of 1824, no human being ever thought of charging him with illegality in this respect. Mr. Rush twice made similar selections, during the administration of Mr. Adams, and no one, either in the same cabinet with him, or out of the cabinet against him, ever complained of it. For twenty years the practice has been uniform; and every citizen of the West knows that that practice was the general, though not universal, exclusion of the Western specie-paying bank paper from the Western land offices. This every man in the West knows, and knows that that general exclusion continued down to the day that the Bank of the United States ceased to be the depository of the public moneys. It was that event which opened the door to the receivability of State bank paper which has since been enjoyed."

Having vindicated the treasury order from the charge of illegality, Mr. Benton took up the head of the new distress, and said:

"The news of all this approaching calamity was given out in advance in the Kentucky speech and the Philadelphia letter, already referred to; and the fact of its positive advent and actual presence was vouched by the senator from Ohio [Mr. Ewing] on the last day that the Senate was in session. I do not permit myself (said Mr. B.) to bandy contradictory asseverations and debatable assertions across this floor. I choose rather to make an issue, and to test assertion by the application of evidence. In this way I will proceed at present. I will take the letter of the president of the Bank of the United States as being official in this case, and most authoritative in the distress department of this combined movement against President Jackson. He announces, in November, the forthcoming of the national calamity in December; and after charging part of this ruin and mischief on the mode of executing what he ostentatiously styles the distribution law, when there is no such law in the country, he goes on to charge the remainder, being ten-fold more than the former upon the Treasury order which excludes paper money from the land offices."

Mr. Benton then read Mr. Biddle's description of the new distress, which, in his publication was awful and appalling, but which, he said, was nowhere visible except in the localities where the bank had power to make it. It was a picture of woe and ruin, but not without hope and remedy if Congress followed his directions; in the mean time he thus instructed the country how to behave, and promised his co-operation—that of the bank—in the overthrow of President Jackson, and his successor, Mr. Van Buren (for that is what he meant in this passage):

"In the mean time, all forbearance and calmness should be maintained. There is great reason for anxiety—none whatever for alarm; and with mutual confidence and courage, the country may yet be able to defend itself against the government. In that struggle my own poor efforts shall not be wanting. I go for the country, whoever rules it. I go for the country, best loved when worst governed—and it will afford me far more gratification to assist in repairing wrongs, than to triumph over those who inflict them."

This pledge of aid in a struggle with the government was a key to unlock the meaning of the movements then going on to produce the general suspension of specie payments in all the banks which saluted the administration of Mr. Van Buren in the first quarter of its existence, and was intended to produce it in its first month. Considering specie payments as the only safety of the country, and foreseeing the general bank explosions, chiefly contrived by the Bank of the United States, which was to re-appear in the ruin, and claim its re-establishment as the only remedy for the evils which itself and its confederates created, Mr. Benton said:

"There is no safety for the federal revenues but in the total exclusion of local paper, and that from every branch of the revenue—customs, lands, and post office. There is no safety for the national finances but in the constitutional medium of gold and silver. After forty years of wandering in the wilderness of paper money, we have approached the confines of the constitutional medium. Seventy-five millions of specie in the country, with the prospect of annual in-

crease of ten or twelve millions for the next four years; three branch mints to commence next spring, and the complete restoration of the gold currency; announce the success of President Jackson's great measures for the reform of the currency and vindicate the constitution from the libel of having prescribed an impracticable currency. The success is complete; and there is no way to thwart it, but to put down the treasury order, and to re-open the public lands to the inundation of paper money. Of this, it is not to be dissembled, there is great danger. Four deeply interested classes are at work to do it—speculators, local banks, United States Bank, and politicians out of power. They may succeed, but he (Mr. B.) would not despair. The darkest hour of night is just before the break of day; and, through the gloom ahead, he saw the bright vision of the constitutional currency erect, radiant, and victorious. Through regulation, or explosion, success must eventually come. If reform measures go on, gold and silver will be gradually and temperately restored; if reform measures are stopped, then the paper system runs riot, and explodes from its own expansion. Then the Bank of the United States will exult in the catastrophe, and claim its own re-establishment, as the only adequate regulator of the local banks. Then it will be said the specie experiment has failed! But no; the contrary will be known, that the specie experiment has not failed, but it was put down by the voice and power of the interested classes, and must be put up again by the voice and power of the disinterested community."

This was uttered in December 1836: in April 1837 it was history.

Mr. Crittenden, of Kentucky, replied to Mr. Benton; and said:

"The senator from Missouri had exhibited a table, the results of which he had pressed with a very triumphant air. Was it extraordinary that the deposit banks should be strengthened? The effect of the order went directly to sustain them. But it was at the expense of all the other banks of the country. Under this order, all the specie was collected and carried into their vaults: an operation which went to disturb and embarrass the general circulation of the country, and to produce that pecuniary difficulty which was felt in all quarters of the Union. Mr. C. did not profess to be competent to judge how far the whole of this distress was attributable to the operation of the treasury order, but of this at least he was very sure, through a great part of the Western country, it was universally attributed to that cause. The senator from Missouri supposed that the order had produced no part of this pressure. If not, he would ask what it had produced? Had it increased the specie in the country? Had it increased the specie in actual and general circulation? If it had done no evil, what good had it done? This, he believed was as yet undiscovered. So far as it had operated at all, it had been to derange the state of the currency, and to give it a direction inverse to the course of business. The honorable senator, however, could not see how moving money across a street could operate to affect the currency; and seemed to suppose that moving money from west to east, or from east to west, would have as little effect. Money, however, if left to itself, would always move according to the ordinary course of business transactions. This course might indeed be disturbed for a time, but it would be like forcing the needle away from the pole: you might turn it round and round as often as you pleased, but, left to itself, it would still settle at the north. Our great commercial cities were the natural repositories where money centred and settled. There it was wanted, and it was more valuable if left there than if carried into the interior. Any intelligent business man in the West would rather have money paid him for a debt in New-York than at his own door. It was worth more to him. If, then, specie was forced, by treasury tactics, to take a direction contrary to the natural course of business, and to move from east to west, the operation would be beneficial to none, injurious to all. It was not in the power of government to keep it in a false direction or position. Specie was in exile whenever it was forced out of that place where business called for it. Such an operation did no real good. It was a forced movement and was soon overcome by the natural course of things.

"Mr. C. was well aware that men might be deluded and mystified on this subject, and that while the delusion lasted, this treasury order might be held up before the eyes of men as a splendid arrangement in finance; but it was only like the natural rainbow, which owed its very existence to the mist in which it had its being. The moment the atmosphere was clear, its bright colors vanished from the view. So it would be with this matter. The specie of the country must resume its natural course. Man might as well escape from the physical necessities of their nature, as from the laws which governed the movements of finance: and the man who professed to reverse or dispense with the one was no greater quack than he who made the same professions with regard to the other.

"But it was said to be the distribution bill which had done all the mischief; and Mr. C. was ready to admit that the manner in which the government had attempted to carry that law into effect might in part have furnished the basis for such a supposition. He had no doubt that the pecuniary evils of the country had been aggravated by the manner in which this had been done."

Mr. Webster also replied to Mr. Benton, in an elaborate speech, in which, before arguing the legal question, he said:

"The honorable member from Missouri (Mr. Benton) objects even to giving the resolution to rescind a second reading. He avails himself of his right, though it be not according to general practice, to arrest the progress of the measure at its first stage. This, at least, is open, bold, and manly warfare. The honorable member, in his elaborate speech, founds his opposition to this resolution, and his support of the treasury order, on those general principles respecting currency which he is known to entertain, and which he has maintained for many years. His opinions some of us regard as altogether ultra and impracticable; looking to a state of things not desirable in itself, even if it were practicable; and, if it were desirable, as being far beyond the power of this government to bring about.

"The honorable member has manifested much perseverance and abundant labor, most undoubtedly, in support of his opinions; he is understood, also, to have had countenance from high places; and what new hopes of success the present moment holds out to him, I am not able to judge, but we shall probably soon see. It is precisely on these general and long-known opinions that he rests his support of the treasury order. A question, therefore, is at once raised between the gentleman's principles and opinions on the subject of the currency, and the principles and opinions which have generally prevailed in the country, and which are, and have been, entirely opposite to his. That question is now about to be put to the vote of the Senate. In the progress and by the termination of this discussion, we shall learn whether the gentleman's sentiments are or are not to prevail, so far, at least, as the Senate is concerned. The country will rejoice, I am sure, to see some declaration of the opinions of Congress on a subject about which so much has been said, and which is so well calculated, by its perpetual agitation, to disquiet and disturb the confidence of society.

"We are now fast approaching the day when one administration goes out of office, and another is to come in. The country has an interest in learning, as soon as possible, whether the new administration, while it receives the power and patronage, is to inherit, also, the topics and the projects of the past; whether it is to keep up the avowal of the same objects and the same schemes, especially in regard to the currency. The order of the Secretary is prospective, and, on the face of it, perpetual. Nothing in or about it gives it the least appearance of a temporary measure. On the contrary, its terms imply no limitation in point of duration, and the gradual manner in which it is to come into operation shows plainly an intention of making it the settled and permanent policy of government. Indeed, it is but now beginning its complete existence. It is only five or six days since its full operation has commenced. Is it to stand as the law of the land and the rule of the treasury, under the administration which is to ensue? And are those notions of an exclusive specie currency, and opposition to all banks, on which it is defended, to be espoused and maintained by the new administration, as they have been by its predecessor? These are questions, not of mere curiosity, but of the highest interest to the whole country. In considering this order, the first thing naturally is, to look for the causes which led to it, or are assigned for its promulgation. And these, on the face of the order itself, are declared to be 'complaints which have been made of frauds, speculations, and monopolies, in the purchase of the public lands, and the aid which is said to be given to effect these objects, by excessive bank credits, and dangerous, if not partial, facilities through bank drafts and bank deposits, and the general evil influence likely to result to the public interest, and especially the safety of the great amount of money in the treasury, and the sound condition of the currency of the country, from the further exchange of the national domain in this manner, and chiefly for bank credits and paper money.'

"This is the catalogue of evils to be cured by this order. In what these frauds consist, what are the monopolies complained of, or what is precisely intended by these injurious speculations, we are not informed. All is left on the general surmise of fraud, speculation, and monopoly. It is not avowed or intimated that the government has sustained any loss, either by the receipt of the bank notes which proved not to be equivalent to specie, or in any other way. And it is not a little remarkable that these evils, of fraud, speculation, and monopoly, should have become so enormous and so notorious, on the 11th of July, as to require this executive interference for their suppression, and yet that they should not have reached such a height as to make it proper to lay the subject before Congress, although Congress remained in session until within seven days of the date of the order. And what makes this circumstance still more remarkable, is the fact that, in his annual message, at the commencement of the same session, the President had spoken of the rapid sales of the public lands as one of the most gratifying proofs of the general prosperity of the country, without suggesting that any danger whatever was to be apprehended from fraud, speculation, or monopoly. His words were: 'Among the evidences of the increasing prosperity of the country, not the least gratifying, is that afforded by the receipts from the sales of the public lands, which amount, in the present year, to the unexpected sum of eleven millions.' From the time of the delivery of that message, down to the date of the treasury order, there had not been the least change, so far as I know, or so far as we are informed, in the manner of receiving payment for the public lands. Every thing stood, on the 11th of July, 1836, as it had stood at the opening of the session, in December, 1835. How so different a view of things happened to be taken at the two periods, we may be able to

learn, perhaps, in the further progress of this debate.

"The order speaks of the 'evil influence' likely to result from the further exchange of the public lands into 'paper money.' Now, this is the very language of the gentleman from Missouri. He habitually speaks of the notes of all banks, however solvent, and however promptly their notes may be redeemed in gold and silver, as 'paper money.' The Secretary has adopted the honorable member's phrases, and he speaks, too, of all the bank notes received at the land offices, although every one of them is redeemable in specie, on demand, but as so much 'paper money.' In this respect, also, sir, I hope we may know more as we grow older, and be able to learn whether, in times to come, as in times recently passed, the justly obnoxious and odious character of 'paper money' is to be applied to the issues of all the banks in all the States, with whatever punctuality they redeem their bills. This is quite new, as financial language. By paper money, in its obnoxious sense, I understand paper issues on credit alone, without capital, without funds assigned for its payment, resting only on the good faith and the future ability of those who issue it. Such was the paper money of our revolutionary times; and such, perhaps, may have been the true character of the paper of particular institutions since. But the notes of banks of competent capitals, limited in amount to a due proportion to such capitals, made payable on demand in gold and silver, and always so paid on demand, are paper money in no sense but one; that is to say, they are made of paper, and they circulate as money. And it may be proper enough for those who maintain that nothing should so circulate but gold and silver, to denominate such bank notes 'paper money,' since they regard them but as paper intruders into channels which should flow only with gold and silver. If this language of the order is authentic, and is to be so hereafter, and all bank notes are to be regarded and stigmatized as mere 'paper money,' the sooner the country knows it the better.

"The member from Missouri charges those who wish to rescind the treasury order with two objects: first, to degrade and disgrace the President; and, next, to overthrow the constitutional currency of the country. For my own part, sir, I denounce nobody; I seek to degrade or disgrace nobody. Holding the order illegal and unwise, I shall certainly vote to rescind it; and, in the discharge of this duty, I hope I am not expected to shrink back, lest I might do something which might call in question the wisdom of the Secretary, or even of the President. And I hope that so much of independence as may be manifested by free discussion and an honest vote is not to cause denunciation from any quarter. If it should, let it come."

It became a very extended debate, in which Mr. Niles, Mr. Rives, Mr. Hubbard, Mr. Southard, Mr. Strange of N. C., Mr. Clay, Mr. Walker of Miss., and others partook. The subject having been referred to the committee of public lands, of which Mr. Walker was chairman, reported a bill, "limiting and designating the funds receivable for the revenues of the United States;" the object of which was to rescind the treasury circular without naming it, and to continue the receipt of bank notes in payment of all dues to the government. Soon after the bill was reported, and had received its second reading, a motion was made in the Senate to lay the impending subject (public lands) on the table for the purpose of considering the bill reported by Mr. Walker to limit and designate the funds receivable in public dues. Mr. Benton was taken by surprise by this motion, which was immediately agreed to, and the bill ordered to be engrossed for a third reading the next day. To that third reading Mr. Benton looked for his opportunity to speak; and availed himself of it, commencing his speech with giving the reason why he did not speak the evening before when the question was on the engrossment of the bill. He said he could not have foreseen that the subject depending before the Senate, the bill for limiting the sales of the public lands to actual settlers, would be laid down for the purpose of taking up this subject out of its order; and, therefore, had not brought with him some memorandums which he intended to use when this subject came up. He did not choose to ask for delay, because his habit was to speak to subjects when they were called; and in this particular cause he did not think it material when he spoke; for he was very well aware that his speaking would not affect the fate of the bill. It would pass; and that was known to all in the chamber. It was known to the senator from Ohio (Mr. Ewing) who indulged himself in saying he thought otherwise a few days ago; but that was only a good-natured way of stimulating his friends, and bringing them up to the scratch. The bill would pass, and that by a good vote, for it would have the vote of the opposition, and a division of the administration vote. Why, then, did he speak? Because it was due to his position, and the part he had acted on the currency questions, to express his sentiments more fully on this bill, so vital to the general currency, than could be done by a mere negative vote.

He should, therefore, speak against it, and should direct his attention to the bill reported by the Public Land Committee, which had so totally changed the character of the proceeding on this subject. The recision of the treasury order was introduced a resolution—it went out a resolution—but it came back a bill, and a bill to regulate, not the land office receipts only, but all the receipts of the federal government; and in this new form is to become statute law, and a law to operate on all the revenues, and to repeal all other laws upon the subject to which it related. In this new form it assumes an importance, and acquires an effect, infinitely beyond a resolution, and becomes in fact, as well as in name, a totally new measure. Mr. B. reminded the Senate that he had, in his first speech on this subject, given it as his opinion, that two main objects were proposed to be accomplished by the rescinding resolution; first, the implied condemnation of President Jackson for violating the laws and constitution, and destroying the prosperity of the country; and, secondly, the imposition of the paper currency of the States upon the federal government. With respect to the first of these objects, he presumed it was fully proved by the speeches of all the opposition senators who had spoken on this subject; and, with respect to the second, he believed it would find its proof in the change which the original resolution had undergone, and the form it was now assuming of statute law, and especially with the proviso which was added at the end of the second section.

Mr. B. then took up the bill reported by the committee, and remarked, first, upon its phraseology, not in the spirit of verbal criticism, but in the spirit of candid objection and fair argument. There were cases in which words were things, and this was one of those cases. Money was a thing, and the only words in the constitution of that thing were, "gold and silver coin." The bill of the committee was systematically exclusive of the words which meant this thing, and used words which included things which were not money. These words were, then, a fair subject of objection and argument, because they went to set aside the money of the constitution, and to admit the public revenues to be paid in something which was not money. The title of the bill uses the word "funds." It professes to designate the funds receivable for the revenues of the United States. Upon this word Mr. B. had remarked before, as being one of the most indefinite in the English language; and, so far from signifying money only, even paper money only, that it comprehended every variety of paper security, public or private, individual or corporate out of which money could be raised. The retention of this word by the committee, after the objections made to it, were indicative of their intentions to lay open the federal treasury to the reception of something which was not constitutional money; and this intention, thus disclosed in the title to the bill, was fully carried out in its enactments. The words "legal currency of the United States" are twice used in the first section, when the words "gold and silver" would have been more appropriate and more definite, if hard money was intended.

Mr. B. admitted that, in the eye of a regular bred constitutional lawyer, legal currency might imply constitutional currency; but certain it was that the common and popular meaning of the phrase was not limited to constitutional money, but included every currency that the statute law made receivable for debts. Thus, the notes of the Bank of the United States were generally considered as legal currency, because receivable by law in payment of public dues; and in like manner the notes of all specie-paying banks would, under the committee's bill, rise to the dignity of legal currency. The second section of the bill twice used the word "cash;" a word which, however understood at the Bank of England, where it always means ready money, and where ready money signifies gold coin in hand, yet with the banks with which we have to deal it has no such meaning, but includes all sorts of current paper money on hand, as well as gold and silver on hand.

Having remarked upon the phraseology of the bill, and shown that a paper currency composed of the notes of a thousand local banks, not only might become the currency of the federal government, but was evidently intended to be made its currency; and that in the face of all the protestations of the friends of the administration in favor of re-establishing the national gold currency, Mr. B. would now take up the bill of the committee under two or three other aspects, and show it to be as mistaken in its design as it would be impotent in its effect. In the first place, it transferred the business of

suppressing the small note circulation from the deposit branch to the collecting branch of the public revenue. At present, the business was in a course of progress through the deposit banks, as a condition of holding the public moneys; and, as such, had a place in the deposit act of the last session, and also had a place in the President's message of the last session, where the suppression of paper currency under twenty dollars was expressly referred to the action of the deposit banks, and as a condition of their retaining the public deposits. It was through the deposit banks, and not through the reception of local bank paper, that the suppression of small notes should be effected. In the next place, he objected to the committee's bill, because it proposed to make a bargain with each of the thousand banks now in the United States, and the hundreds more which will soon be born; and to give them a right—a right by law—to have their notes received at the federal treasury. He was against such a bargain. He had no idea of making a contract with these thousand banks for the reception of their notes. He had no idea of contracting with them, and giving them a right to plead the constitution of the United States against us, if, at any time, after having agreed to receive their notes, upon condition that they would give up their small circulation, they should choose to say we had impaired the contract by not continuing to receive them; and so either relapse into the issue of this small trash, or have recourse to the judicial process to compel the United States to abide the contract, and continue the reception of all their notes. Mr. B. had no idea of letting down this federal government to such petty and inconvenient bargains with a thousand moneyed corporations. The government of the United States ought to act as a government, and not as a contractor. It should prescribe conditions, and not make bargains. It should give the law. He was against these bargains, even if they were good ones; but they were bad bargains, wretchedly bad, and ought to be rejected as such, even if all higher and nobler considerations were out of the question. What is the consideration that the United States is to receive? A mere individual agreement with each bank by itself, that in three years it will cease to issue notes under ten dollars and in five years it will cease to issue notes under twenty dollars. What is the price which she pays for this consideration? In the first place, it receives the notes of such bank as gold and silver at all the land-offices, custom-houses, and post-offices, of the United States; and, of course, pays them out again as gold and silver to all her debtors. In the next place, it compels the deposit banks to credit them as cash. In the third place, it accredits the whole circulation of the banks, and makes it current all over the United States, in consequence of universal receivability for all federal dues. In other words, it endorses, so far as credit is concerned, the whole circulation of every bank that comes into the bargain thus proposed. This is certainly a most wretched bargain on the part of the United States—a bargain in which what she receives is ruinous to her; for the more local payment she receives in payment of her revenues, the worse for her, and the sooner will her treasury be filled with unavailable funds.

Mr. B. having gone over these objections to the committee's bill, would now ascend to a class of objections of a higher and graver character. He had already remarked that the committee had carried out a resolution, and had brought back a bill; that the committee proposed a statutory enactment, where the senator from Ohio [Mr. Ewing], and the senator from Virginia [Mr. Rives], had only proposed a joint resolution; and he had already further remarked, that in addition to this total change in the mode of action, the committee had added what neither of these senators had proposed, a clause, under a proviso, to enact paper money into cash—to pass paper money to the credit of the United States, as cash—and to punish, by the loss of the deposits, any deposit bank which should refuse so to receive, so to credit, and so to pass, the notes "receivable" under the provisions of their bill. These two changes make entirely a new measure—one of wholly a different character from the resolutions of the two senators—a measure which openly and in terms, and under penalties undertakes to make local State paper a legal tender to the federal government, and to compel the reception of all its revenues in the notes "receivable" under the provisions of the committee's bill. After this gigantic step—this colossal movement—in favor of paper money, there was but one step more for the committee to take; and that was to make these notes a legal tender in all payments from the federal

government. But that step was unnecessary to be taken in words, for it is taken in fact, when the other great step becomes law. For it is incontestable that what the government receives, it must pay out; and what it pays out becomes the currency of the country. So that when this bill passes, the paper money of the local banks will be a tender by law to the federal government, and a tender by *duresse* from the government to its creditors and the people. This is the state to which the committee's bill will bring us! and now, let us pause and contemplate, for a moment, the position we occupy, and the vast ocean of paper on which we are proposed to be embarked.

We stand upon a constitution which recognizes nothing but gold and silver for money; we stand upon a legislation of near fifty years, which recognizes nothing but gold and silver money. Now, for the first time, we have a statutory enactment proposed to recognize the paper of a wilderness of local banks for money, and in so doing to repeal all prior legislation by law, and the constitution by fact. This is an era in our legislation. It is statute law to control all other law, and is not a resolution to aid other laws, and to express the opinions of Congress. It is statutory enactment to create law, and not a declaratory resolution to expound law; and the effects of this statute would be, to make a paper government—to insure the exportation of our specie—to leave the State banks without foundations to rest upon—to produce a certain catastrophe in the whole paper system—to revive the pretensions of the United States Bank—and to fasten for a time the Adam Smith system upon the Federal Government and the whole Union.

Mr. Benton concluded his speech with a warning against the coming explosion of the banks; and said:

The day of revulsion may come sooner or later, and its effects may be more or less disastrous; but come it must, and disastrous, to some degree, it must be. The present bloat in the paper system cannot continue; the present depreciation of money exemplified in the high price of every thing dependent upon the home market, cannot last. The revulsion will come, as surely as it did in 1819–'20. But it will come with less force if the treasury order is maintained, and if paper money shall be excluded from the federal treasury. But, let these things go as they may, and let reckless or mischievous banks do what they please, there is still a refuge for the wise and good; there is still an ark of safety for every honest bank, and for every prudent man; it is in the mass of gold and silver now in the country—the seventy odd millions which the wisdom of President Jackson's administration has accumulated—and by getting their share of which, all who are so disposed can take care of themselves. Sir (said Mr. B.), I have performed a duty to myself, not pleasant, but necessary. This bill is to be an era in our legislation and in our political history. It is to be a point upon which the future age will be thrown back, and from which future consequences will be traced. I separate myself from it; I wash my hands of it; I oppose it. I am one of those who promised gold, not paper. I promised the currency of the constitution, not the currency of corporations. I did not join in putting down the Bank of the United States, to put up a wilderness of local banks. I did not join in putting down the paper curency of a national bank, to put up a national paper currency of a thousand local banks. I did not strike Cæsar to make Anthony master of Rome.

Mr. Walker replied to what he called the bill of indictment preferred by the senator from Missouri against the committee on public lands; and after some prefatory remarks went on to say:

"But when that senator, having exhausted the argument, or having none to offer, had indulged in violent and intemperate denunciation of the Committee on Public Lands, and of the report made by him as their organ, Mr. W. could not withhold the expression of his surprise and astonishment. Mr. W. said it was his good fortune to be upon terms of the kindest personal intercourse with every senator, and these friendly relations should not be interrupted by any aggression upon his part. And now, Mr. W. said, he called upon the whole Senate to bear witness, as he was sure they all cheerfully would, that in this controversy he was not the aggressor, and that nothing had been done or said by him to provoke the wrath of the senator from Missouri, unless, indeed, to differ from him in opinion upon any subject constituted an offence in the mind of that senator. If such were the views of that gentleman, if he was prepared to immolate every senator who would not worship the same images of gold and silver which decorated the political chapel

of the honorable gentleman, Mr. W. was fearful that the senator from Missouri would do execution upon every member of the Senate but himself, and be left here alone in his glory. Mr. W. said he recurred to the remarks of the senator from Missouri with feelings of regret, rather than of anger or excitement; and that he could not but hope, that when the senator from Missouri had calmly reflected upon this subject, he would himself see much to regret in the course he had pursued in relation to the Committee on Public Lands, and much to recall that he had uttered under feelings of temporary excitement. Sir (said Mr. W.), being deeply solicitous to preserve unbroken the ranks of the democratic party in this body, participating with the people in grateful recollection of the distinguished services rendered by the senator from Missouri to the democracy of the Union, he would pass by many of the remarks made by that senator on this subject.

"[Mr. Benton here rose from his chair, and demanded, with much warmth, that Mr. Walker should not pass by one of them. Mr. W. asked, what one? Mr. B. replied, in an angry tone, Not one, sir. Then Mr. W. said he would examine them all, and in a spirit of perfect freedom; that he would endeavor to return blow for blow; and that, if the senator from Missouri desired, as it appeared he did, an angry controversy with him, in all its consequences, in and out of this house, he could be gratified.]

"Sir (said Mr. W.), why has the senator from Missouri assailed the Committee on Public Lands, and himself, as its humble organ? He was not the author of this measure, so much denounced by the senator from Missouri, nor had he said one word upon the subject. The measure originated with the senator from Virginia [Mr. Rives]. He was the author of the measure, and had been, and still was, its able, zealous, and successful advocate. Why, then, had the senator from Missouri assailed him (Mr. W.), and permitted the author of the measure to escape unpunished? Sir, are the arrows which appear to be aimed by the senator from Missouri at the humble organ of the Committee on Public lands, who reported this bill, intended to inflict a wound in another quarter? Is one senator the apparent object of assault, when another is designed as the real victim? Sir, when the senator from Missouri, without any provocation, like a thunderbolt from an unclouded sky, broke upon the Senate in a perfect tempest of wrath and fury, bursting upon his poor head like a tropical tornado, did he intend to sweep before the avenging storm another individual more obnoxious to his censure?

"Sir (said Mr. W.), the senator from Missouri has thrice repeated the prayer, 'God save the country from the Committee on Public Lands;' but Mr. W. fully believed if the prayer of the country could be heard within these walls, it would be, God save us from the wild, visionary, ruinous, and impracticable schemes of the senator of Missouri, for exclusive gold and silver currency; and such is not only the prayer of the country, but of the Senate, with scarcely a dissenting voice. Sir, if the senator from Missouri could, by his mandate, in direct opposition to the views of the President, heretofore expressed, sweep from existence all the banks of the States, and establish his exclusive constitutional currency of gold and silver, he would bring upon this country scenes of ruin and distress without a parallel—an immediate bankruptcy of nearly every debtor, and of almost every creditor to whom large amounts were due, a prodigious depreciation in the price of all property and all products, and an immediate cessation by States and individuals of nearly every work of private enterprise or public improvement. The country would be involved in one universal bankruptcy, and near the grave of the nation's prosperity would perhaps repose the scattered fragments of those great and glorious institutions which give happiness to millions here, and hopes to millions more of disenthralment from despotic power. Sir, in resistance to the power of the Bank of the United States, in opposition to the re-establishment of any similar institution, the senator from Missouri would find Mr. W. with him; but he could not enlist as a recruit in this new crusade against the banks of his own and every other State in the Union. These institutions, whether for good or evil, are created by the States, cherished and sustained by them, in many cases owned in whole or in part by the States, and closely united with their prosperity; and what right have we to destroy them? What right had he, a humble servant of the people of Mississippi, to say to his own, or any other State, your State legislation is wrong—your State institution, your State banks, must be annihilated, and we will legislate here to effect this object. Are we the masters or servants of the sovereign States, that we dare speak to them in language like this—that we dare attempt to prostrate here those institutions which are created and maintained by those very States which we represent on this floor? These may be the opinions entertained by some senators of their duty to the States they represent, but they were not his (Mr. W's) views or his opinions. He was sincerely desirous to co-operate with his State in limiting any dangerous powers of the banks, in enlarging the circulation of gold and silver, and in suppressing the small note currency, so as to avoid that explosion which was to be apprehended from excessive issues of bank paper. But a total annihilation of all the banks of his own State, now possessing a chartered capital of near forty millions of dollars, would, Mr. W. knew, produce almost universal bankruptcy, and was not, he believed, anticipated by any one of his constituents.

"But the senator from Missouri tells us that this measure of the committee is a repeal of the constitution, by authorizing the receipt of paper

money in revenue payments. If so, then the constitution never has had an existence; for the period cannot be designated when paper money was not so receivable by the federal government. This species of money was expressly made receivable for the public dues by an act of Congress, passed immediately after the adoption of the constitution, and which remained in force until eighteen hundred and eleven. It was so received, as a matter of practice, from eighteen hundred and eleven until eighteen hundred and sixteen, when, again, by an act of Congress then passed, and which has just expired, it was so authorized to be received during all that period. Now, although these acts have expired, there is that which is equivalent to a law still in force, expressly authorizing the notes of the specie-paying banks of the States to be received in revenue payments. It is the joint resolution of eighteen hundred and sixteen, adopted by both houses of Congress, and approved by President Madison.

"Where is the distinction, in principle, as regards the reception of bank paper on public account, between the two provisions? And the senator from Missouri, in thus denouncing the bill of the committee as a repeal of the constitution, denounces directly the President of the United States. Congress, no more than a State legislature, can make any thing but gold or silver a tender in payment of debts by one citizen to another; but that Congress, or a State legislature, or an individual, may waive their constitutional rights, and receive bank paper or drafts, in payment of any debt, is a principle of universal adoption in theory and practice, and never doubted by any one until at the present session by the senator from Missouri. The distinction of the senator in this respect was as incomprehensible to him (Mr. W.) as he believed it was to every senator, and, indeed, was discernible only by the magnifying powers of a solar microscope. It was a point-no-point, which, like the logarithmic spiral, or asymptote of the hyperbolic curve, might be for ever approached without reaching; an infinitesimal, the ghost of an idea, not only without length, breadth, thickness, shape, weight, or dimensions, but without position—a mere imaginary nothing, which flitted before the bewildered vision of the honorable senator, when traversing, in his fitful somnambulism, that tesselated pavement of gold, silver, and bullion, which that senator delighted to occupy. Sir, the senator, from Missouri might have heaped mountain high his piles of metal; he might have swept, in his Quixotic flight, over the banks of the States, putting to the sword their officers, stockholders, directory, and legislative bodies by which they were chartered; he might, in his reveries, have demolished their charters, and consumed their paper by the fire of his eloquence; he might have transacted, in fancy, with a metallic currency of twenty-eight millions in circulation, an actual annual business of fifteen hundred millions, and Mr. W. would not have disturbed his beatific visions, nor would any other senator—for they were visions only, that could never be realized—but when, descending from his ethereal flights, he seized upon the Committee on Public Lands as criminals, arrainged them as violators of the constitution, and prayed Heaven for deliverance from them, Mr. W. could be silent no longer. Yes, even then he would have passed lightly over the ashes of the theories of the honorable Senator, for, if he desired to make assaults upon any, it would be upon the living, and not the dead; but that senator, in the opening of his (Mr. W.'s) address, had rejected the olive branch which, upon the urgent solicitation of mutual friends, against his own judgment, he had extended to the honorable senator. The senator from Missouri had thus, in substance, declared his 'voice was still for war.' Be it so; but he hoped the Senate would all recollect that he (Mr. W.) was not the aggressor; and that, whilst he trusted he never would wantonly assail the feelings or reputation of any senator, he thanked God that he was not so abject or degraded as to submit, with impunity, to unprovoked attacks or unfounded accusations from any quarter. Could he thus submit, he would be unfit to represent the noble, generous, and gallant people, whose rights and interests it was his pride and glory to endeavor to protect, whose honor and character were dearer to him than life itself, and should never be tarnished by any act of his, as one of their humble representatives upon this floor."

Mr. Rives returned thanks to Mr. Walker for his able and satisfactory defence of the bill, which in fact was his own resolution changed into a bill. He should not be able to add much to what had been said by the honorable senator, but was desirous of adding his mite in reply to so much of what had been so zealously urged by the senator from Missouri (Mr. Benton), as had not been touched upon by the chairman of the land committee; and did so in an elaborate speech a few days thereafter. Mr. Benton did not reply to either of the senators; he believed that the events of a few months would answer them, and the vote being immediately taken, the bill was passed almost unanimously—only five dissenting votes. The yeas and nays were:

YEAS—Messrs. Black, Brown, Buchanan, Clay, Clayton, Crittenden, Cuthbert, Dana, Davis, Ewing of Illinois, Ewing of Ohio, Fulton, Grundy, Hendricks, Hubbard, Kent, King of Alabama, King of Georgia, Knight, McKean, Moore, Nicholas, Niles, Norvell, Page, Parker, Prentiss, Preston, Rives, Robbins, Robinson, Sevier, Southard, Swift, Tallmadge, Tipton, Tomlinson, Walker, Wall, Webster, White.—41.

NAYS—Messrs. Benton, Linn Morris, Ruggles, Wright—5.

The name of Mr. Calhoun is not in either list of these votes. He had a reason for not voting, which he expressed to the Senate. before the vote was taken; thus:

"He had been very anxious to express his opinions somewhat at large upon this subject. He put no faith in this measure to arrest the downward course of the country. He believed the state of the currency was almost incurably bad, so that it was very doubtful whether the highest skill and wisdom could restore it to soundness; and it was destined, at no distant time, to undergo an entire revolution. An explosion he considered inevitable, and so much the greater, the longer it should be delayed. Mr. C. would have been glad to go over the whole subject; but as he was now unprepared to assign his reasons for the vote which he might give, he was unwilling to vote at all."

The explosion of the banks, which Mr. Calhoun considered inevitable, was an event so fully announced by its "shadow coming before," that Mr. Benton was astonished that so many senators could be blind to its approach, and willing, by law, to make their notes receivable in all payments to the federal government. The bill went to the House of Representatives, where a very important amendment was reported from the Committee of Ways and Means to which the bill had been referred, intended to preserve to the Secretary of the Treasury his control over the receivability of money for the public dues, so as to enable him to protect the constitutional currency and reject the notes of banks deemed by him to be unworthy of credit. That amendment was in these words, and its rejection goes to illustrate the character of the bill that was passed:

"*And be it further enacted*, That no part of this act shall be construed as repealing any existing law relative to the collection of the revenue from customs or public lands in the legal currency, or as substituting bank notes of any description as a lawful currency for coin, as provided in the constitution of the United States; nor to deprive the Secretary of the Treasury of the power to direct the collectors or receivers of the public revenue, whether derived from duties, taxes, debts, or sales of the public lands, not to receive in payment, for any sum due to the United States, the notes of any bank or banks which the said Secretary may have reason to believe unworthy of credit, or which he apprehends may be compelled to suspend specie payments."

Mr. Cambreleng, chairman of the Committee of Ways and Means, in support of this amendment, said it had been reported for the purpose of preventing a misconstruction of the bill as it came from the Senate, and securing the public revenue from serious frauds, and asked for the yeas and nays. The amendment was cut off by a sustained call for the previous question; and the bill passed by a strong vote—143 to 59 The nays were:

NAYS—Messrs. Ash, Barton, Bean, Beaumont, Black, Bockee Boyd, Brown, Burns, Cambreleng, Chaney, Chapin, Coles, Cushman, Doubleday, Dromgoole, Efner, Fairfield, Farlin, Fry, Fuller, Galbraith, J. Hall, Hamer, Hardin, A. G. Harrison, Hawes, Holt, Huntington, Jarvis, C. Johnson, B. Jones, Lansing, J. Lee, Leonard, Logan, Loyall, A. Mann, W. Mason, M. Mason, McKay, McKeon, McLean, Page, Parks, F. Pierce, Joseph Reynolds, Rogers, Seymour, Shinn, Sickles, Smith, Taylor, Thomas, J. Thomson, Turrill, Vanderpoel, Ward, Wardwell—59.

It was near the end of the session before the bill passed the House of Representatives. It only got to the hands of the President in the afternoon of the day before the constitutional dissolution of the Congress. He might have retained it (for want of the ten days for consideration which the constitution allowed him), without assigning any reason to Congress for so doing; but he chose to assign a reason which, though good and valid in itself, may have been helped on to its conclusions by the evil tendencies of the measure. That reason was the ambiguous and equivocal character of the bill, and the diversity of interpretations which might be placed upon its provisions; and was contained in the following message to the Senate:

"The bill from the Senate entitled 'An act designating and limiting the funds receivable for the revenues of the United States, came to my hands yesterday, at two o'clock P. M. On perusing it, I found its provisions so complex and uncertain, that I deemed it necessary to obtain the opinion of the Attorney General of the United States on several important questions, touching its construction and effect, before I could decide on the disposition to be made of it. The Attorney General took up the subject immediately, and his reply was reported to me this day, at five o'clock P. M. As this officer, after a careful and laborious examination of the bill, and a distinct expression of his opinion on the points proposed to him, still came to the conclusion that the construction of the bill, should it become a law, would be yet a subject of much

perplexity and doubt (a view of the bill entirely coincident with my own), and as I cannot think it proper, in a matter of such interest and of such constant application, to approve a bill so liable to diversity of interpretations, and more especially as I have not had time, amid the duties constantly pressing on me, to give the subject that deliberate consideration which its importance demands, I am constrained to retain the bill, without acting definitively thereon; and to the end that my reasons for this step may be fully understood, I shall cause this paper, with the opinion of the Attorney General, and the bill in question, to be deposited in the Department of State."

Thus the firmness of the President again saved the country from an immense calamity, and in a few months covered him with the plaudits of a preserved and grateful country.

CHAPTER CLVI.

DISTRIBUTION OF LANDS AND MONEY—VARIOUS PROPOSITIONS.

The spirit of distribution, having got a taste of that feast in the insidious deposit bill at the preceding session, became ungovernable in its appetite for it at this session, and open and undisguised in its efforts to effect its objects. Within the first week of the meeting of Congress, Mr. Mercer, a representative from Virginia, moved a resolution that the Committee of Ways and Means be directed to bring in a bill to release the States from all obligation ever to return the dividends they should receive under the so-called deposit act. It was a bold movement, considering that the States had not yet received a dollar, and that it was addressed to the same members, sitting in the same chairs, who had enacted the measure under the character of a deposit, to be sacredly returned to the United States whenever desired; and under that character had gained over to the support of the act two classes of voters who could not otherwise have been obtained; namely, those who condemned the policy of distribution, and those who denied its constitutionality. Mr. Dunlap, of Tennessee, met Mr. Mercer's motion at the threshold—condemned it as an open conversion of deposit into distribution—as a breach of the condition on which the deposit was obtained—as unfit to be discussed; and moved that it be laid upon the table—a motion that precludes discussion, and brings on an immediate vote. Mr. Mercer asked for the yeas and nays, which being taken showed the astonishing spectacle of seventy-three members recording their names against the motion. The vote was 126 to 73. Simultaneously with Mr Mercer's movement in the House to pull the mask from the deposit bill, and reveal it in its true character, was Mr. Clay's movement in the Senate to revive his land-money distribution bill, to give it immediate effect, and continue its operation for five years. In the first days of the session he gave notice of his intention to bring in his bill; and quickly followed up his notice with its actual introduction. On presenting the bill, he said it was due to the occasion to make some explanations: and thus went on to make them:

"The operation of the bill which had heretofore several times passed the Senate, and once the House, commenced on the last of December, 1822, and was to continue five years. It provided for a distribution of the nett proceeds of the public lands during that period, upon well-known principles. But the deposit act of the last session had disposed of so large a part of the divisible fund under the land bill, that he did not think it right, in the present state of the treasury, to give the bill—which he was about to apply for leave to introduce—that retrospective character. He had accordingly, in the draught which he was going to submit, made the last day of the present month its commencement, and the last day of the year 1841 its termination. If it should pass, therefore, in this shape, the period of its duration will be the same as that prescribed in the former bills. The Senate will readily comprehend the motive for fixing the end of the year 1841, as it is at that time that the biennial reductions of ten per cent. upon the existing duties cease, according to the act of the 2d March 1833, commonly called the compromise act, and a reduction of one half of the excess beyond twenty per cent. of any duty then remaining, is to take effect. By that time, a fair experiment of the land bill will have been made, and Congress can then determine whether the proceeds of the national domain shall continue to be equitably divided, or shall be applied to the current expenses of the government. The bill in his hand assigns to the new State of Arkansas her just proportion of the fund, and grants to her 500,000 acres of land as proposed to other States. A similar assignment and grant are not made to Michigan, because her admission into the Union is not yet complete. But when that event occurs, provision is made by which that State will re-

ceive its fair dividend. He had restored, in this draught, the provision contained in the original plan for the distribution of the public lands, which he had presented to the Senate, by which the States, in the application of the fund, are restricted to the great objects of education, internal improvement, and colonization. Such a restriction would, he believed, relieve the Legislatures of the several States from embarrassing controversies about the disposition of the fund, and would secure the application of what was common in its origin, to common benefits in its ultimate destination. But it was scarcely necessary for him to say that this provision, as well as the fate of the whole bill, depended upon the superior wisdom of the Senate and of the House. In all respects, other than those now particularly mentioned, the bill is exactly as it passed this body at the last session."

The bill was referred to the Committee on Public Lands, consisting of Mr. Walker of Mississippi, Mr. Ewing of Ohio, Mr. King of Alabama, Mr. Ruggles of Maine, Mr. Fulton of Arkansas. The committee returned the bill with an amendment, proposing to strike out the entire bill, and substitute for it a new one, to restrict the sale of the lands to actual settlers in limited quantities. In the course of the discussion of the bill, Mr. Benton offered an amendment, securing to any head of a family, any young man over the age of eighteen, and any widow, a settlement right in 160 acres at reduced prices, and inhabitation and cultivation for five years: which amendment was lost by a close vote—18 to 20. The yeas and nays were:

Yeas—Messrs. Benton, Black, Dana, Ewing of Illinois, Fulton, Hendricks, King of Alabama, Linn, Moore, Morris. Nicholas, Rives, Robinson, Sevier, Strange, Tipton, Walker, White—18.

Nays—Messrs. Bayard, Brown, Calhoun, Clay, Clayton, Crittenden, Davis, Ewing of Ohio, Hubbard, Kent, King of Georgia, Niles, Page, Prentiss, Robbins, Ruggles, Swift, Tallmadge, Wright—20.

The substitute reported by the committee on public lands, after an extended debate, and various motions of amendment, was put to the vote, and adopted—twenty-four to sixteen—the yeas and nays being:

Yeas—Messrs. Benton, Black, Brown, Buchanan, Cuthbert, Ewing of Illinois, Fulton, Grundy, Hendricks, Hubbard, King of Alabama, Linn, Lyon, Moore, Mouton, Nicholas, Niles, Norvell, Page, Rives, Robinson, Strange, Walker, Wright—24.

Nays.—Messrs. Bayard, Calhoun, Davis, Ewing of Ohio, Kent, King of Georgia, Knight, Prentiss, Robbins, Sevier, Southard, Swift, Tomlinson, Wall, Webster, White—16.

So Mr. Clay's plan of a five years' open distribution of the land money to the States, in addition to the actual distribution, under the deposit mask, was now defeated in the Senate: but that did not put an end to kindred schemes. They multiplied in different forms; and continued to vex Congress to almost the last day of its existence. Mr. Calhoun brought a plan for the cession of all the public lands to the States in which they lay, to be sold by them on graduated prices, extending to thirty-five years, on condition that the States should take the expenses of the land system on themselves, and pay thirty-three and a third per centum, of the sales, to the federal treasury. Mr. Benton objected, on principle, to any complication of moneyed or property transactions between the States and the federal government, leading, as they inevitably would, to dissension and contention; and ending in controversies between the members and the head of the federal government: and, on detail, because the graduation was extended beyond a period when the new States would be strong enough to obtain better terms, without the complication of a contract, and the condition of a purchase. Within the thirty-five years, there would be three new apportionments of representatives, under the censuses of 1840, 1850, and 1860—doubling or trebling the new States' representation each time; also several new States admitted; so that they would be strong enough to take effectual measures for the extinction of the federal titles within the States, on just and equitable principles. Mr. Buchanan openly assailed Mr. Calhoun's proposition as a bid for the presidency; and said:

"He had heard a great deal said about bribing the people with their own money; arguments of that kind had been reiterated, but they had never had much effect on him. But speaking on the same principles on which this had been said, and without intending any thing personal toward the honorable senator from South Carolina, he would say this was the most splendid bribe that had ever yet been offered. It was to give the entire public domain to the people of the new States, without fee or reward, and on the single condition that they should not bring all the land into market at once. It was the first time such a proposition had been brought forward for legislation; and he solemnly protested against the principle that Congress had

any right, in equity or justice, to give what belonged to the entire people of the Union to the inhabitants of any State or States whatever. After warmly expressing his dissent to the amendment, Mr. B. said he hoped it would not receive the sanction of any considerable portion of the Senate."

Mr. Sevier of Arkansas, said it might be very true that presidential candidates would bid deep for the favor of the West; but that was no reason why the West should refuse a good offer, when made. Deeming this a good one, and beneficial to the new States, he was for taking it. Mr. Linn, of Missouri, objected to the proposition of Mr. Calhoun, as an amendment to the bill in favor of actual settlers (in which form it was offered), because it would be the occasion of losing both measures; and said:

"He might probably vote for it as an independent proposition, but could not as it now stood. He had set out with the determination to vote against every amendment which should be proposed, as the bill had once been nearly lost by the multiplication of them. If this amendment should be received, the residue of the session would be taken up in discussing it, and nothing would be done for his constituents. He wanted them to know that he had done his utmost, which was but little, to carry into effect their wishes, and to secure their best interests in the settlement of the new country. He was anxious to obtain the passage of an equitable pre-emption law, which should secure to them their homes, and not throw the country into the hands of great capitalists, as had been done in the case of the Holland Land Company, and thus retard the settlement of the West. As to the evasions of previous pre-emption laws, of which so much had been said, he believed they either had no existence in Missouri, or had been grossly exaggerated. In the course of his professional duty (Mr. Linn is a physician, in large practice), he had occasion to become extensively acquainted with the people concerning whom these things had been asserted (he referred to the emigrants who had setled in that State, under the pre-emption law of 1814), and he could say, nothing of the kind had fallen under his observation. They had come there, in most cases, poor, surrounded by all the evils and disadvantages of emigration to a new country; he had attended many of them in sickness; and he could truly aver that they were, as a whole, the best and most upright body of people he had ever known.

"Mr. L. said he was a practical man, though his temperament might be somewhat warm. He looked to things which were attainable, and in the near prospect of being obtained, rather than at those contingent and distant. Here was a bill, far advanced in the Senate, and, as he hoped, on the eve of passing. He believed it would secure a great good to his constituents; and he could not consent to risk that bill by accepting the amendment proposed by the senator from South Carolina. If the senator from Arkansas would let this go, he might possibly find that it was a better thing than he could ever get again. He wanted that Congress should so regulate the public lands, and so arrange the terms on which it was disposed of, as to furnish in the West an opportunity for poor men to become rich, and every worthy and industrious man prosperous and happy."

Mr. Calhoun felt himself called upon to rise in defence of his proposition, and in vindication of his own motives in offering it; and did so, in a brief speech, saying:

"When the Senate had entered upon the present discussion, he had had little thought of offering a proposition like this. He had, indeed, always seen that there was a period coming when this government must cede to the new States the possession of their own soil; but he had never thought, till now, that period was so near. What he had seen this session, however, and especially the nature and character of the bill which was now likely to pass, had fully satisfied him that the time had arrived. There were at present eighteen senators from the new States. In four years, there would be six more, which would make twenty-four. All, therefore, must see that, in a very short period, those States would have this question in their own hands. And it had been openly said that they ought not to accept of the present proposition, because they would soon be able to get better terms. He thought, therefore, that, instead of attempting to resist any longer what must eventually happen, it would be better for all concerned that Congress should yield at once to the force of circumstances, and cede the public domain. His objects in this movement were high and solemn objects. He wished to break down the vassalage of the new States. He desired that this government should cease to hold the relation of a landlord. He wished, further, to draw this great fund out of the vortex of the presidential contest, with which it had openly been announced to the Senate there was an avowed design to connect it. He thought the country had been sufficiently agitated, corrupted, and debased, by the influence of that contest; and he wished to take this great engine out of the hands of power. If he were a candidate for the presidency, he would wish to leave it there. He wished to go further: he sought to remove the immense amount of patronage connected with the management of this domain—a patronage which had corrupted both the old and the new States to an enormous extent. He sought to counteract the centralism,

which was the great danger of this government, and thereby to preserve the liberties of the people much longer than would otherwise be possible. As to what was to be received for these lands, he cared nothing about it. He would have consented at once to yield the whole, and withdraw altogether the landlordship of the general government over them, had he not believed that it would be most for the benefit of the new States themselves that it should continue somewhat longer. These were the views which had induced him to present the amendment. He offered no gilded pill. He threw in no apple of discord. He was no bidder for popularity. He prescribed to himself a more humble aim, which was simply to do his duty. He sought to counteract the corrupting tendency of the existing course of things. He sought to weaken this government by divesting it of at least a part of the immense patronage it wielded. He held that every great landed estate required a local administration, conducted by persons more intimately acquainted with local wants and interests than the members of a central government could possibly be. If any body asked him for a proof of the truth of his positions, he might point them to the bill now before the Senate. Such were the sentiments, shortly stated, which had governed him on this occasion. He had done his duty, and he must leave the result with God and with the new States."

Mr. Calhoun's proposition was then put to the vote, and almost unanimously rejected, only six senators besides himself voting for it; namely: Messrs. King of Georgia; Moore of Alabama; Morris of Ohio; Robinson of Illinois; Sevier of Arkansas; and White of Tennessee. And thus a third project of distribution (counting Mr. Mercer's motion as one), at this session, had miscarried. But it was not the end. Mr. Chilton Allen, representative from Kentucky, moved a direct distribution of land to the old States, equal in amount to the grants which had been made to the new States. Mr. Abijah Mann, jr., of New York, strikingly exposed the injustice of this proposition, in a few brief remarks, saying:

"It must be apparent, by this time, that this proposition was neither more nor less than a new edition of the old and exploded idea of distributing the proceeds of the sales of the public lands, attempted to be concealed under rubbish and verbiage, and gilded over by the patriotic idea of applying it to the public education. Its paternity is suspicious, and its hope fallacious and delusive. The preamble to this resolution is illusory and deceptive, addressed to the cupidity of the old States represented on this floor. It recites the grants made by Congress to each of the new States of the public lands in the aggregate, without specifying the motive or consideration upon which they were made. Its argument is, that an equal quantity should be granted to the old States, to make them respectively equal sharers in the public lands. Now, sir (said Mr. M.), nothing could be devised more disingenuous and deceptive. Let us look at it briefly. The idea is, that the old States granted these lands to the new for an implied consideration, and resulting benefit to themselves; that it was a sort of Indian gift, to be refunded with increase. Not so, sir, at all. If Mr. M. understood the motives inducing those grants, they were paternal on the part of the old States; proceeding upon that generous and noble liberality which induces a wealthy father to advance and provide for his children. This was the moving consideration, though he (Mr. M.) was aware that the grants in aid of the improvements of the new States and territories were upon consideration of advancing the sale and improvement of the remaining lands in those States held by the United States."

The proposition of Mr. Allen was disposed of by a motion to lie on the table, which prevailed—one hundred and fourteen to eighty-one votes; but the end of these propositions was not yet. Another motion to divide surpluses was to be made, and was made in the expiring days of the session, and by way of amendment to the regular fortification bill. Mr. Bell, of Tennessee, moved, on the 25th of February, that a further deposit of all the public monies in the treasury on the first day of January, 1838, above the sum of five millions of dollars, should be "deposited" with the States, according to the terms of the "deposit" bill of the preceding session; and which would have the effect of making a second "deposit" after the completion of the first one. The argument for it was the same which had been used in the first case; the argument against it was the one previously used, with the addition of the objectionable proceeding of springing such a proposition at the end of the session, and as an amendment to a defence appropriation bill, on its passage; to which it was utterly incongruous, and must defeat; as, if it failed to sink the bill in one of the Houses, it must certainly be rejected by the President, who, it was now known, would not be cheated again with the word deposit. It was also opposed as an act of supererogation, as nobody could tell whether there would be any surplus a year hence; and further, it was opposed as an act of usurpation and an encroachment upon the authority of the ensuing Congress. A new Con-

gress was to be elected, and to assemble before that time; the present Congress would expire in six days: and it was argued that it was neither right nor decent to anticipate their successors, and do what they, fresh from the people, might not do. Mr. Yell, of Arkansas, was the principal speaker against it; and said:

"I voted, Mr. Speaker, against the amendment proposed by the gentleman from Tennessee (Mr. Bell), because I am of opinion that this bill, if passed, and sanctioned by the President—and I trust that it never will receive the countenance of that distinguished man and illustrious statesman—will at once establish a system demoralizing and corrupting in its influences, and tend to the destruction of the sovereignty of the States, and render them dependant suppliants on the general government. This measure of distribution, since it has been a hobby-horse for gentlemen to ride on, has presented an anomalous spectacle! The time yet belongs to the history of this Congress, when honorable gentlemen, from the South and West, were daily found arraying themselves against every species of unnecessary taxation, boldly avowing that they were opposed to any and all tariff systems which would yield a revenue beyond the actual wants and demands of the government. Such was their language but a few weeks or months ago; and, in proclaiming it, they struggled hard to excel each other in zeal and violence. And now, sir, what is the spectacle we behold? A system of distribution—another and a specious name for a system of *bribery* has been started; the hounds are in full cry; and the same honorable and patriotic gentlemen now step forward, and, at the watchword of 'put money in thy purse; aye, put money in thy purse,' vote for the distribution or bribery measure; the effect of which is to entail on this country a system of taxation and oppression, which has had no parallel since the days of the tea and ten-penny tax—two frightful measures of discord, which roused enfeebled colonies to rebellion, and led to the foundation of this mighty republic. But we are told, Mr. Speaker, that this proposed distribution is only for momentary duration; that it is necessary to relieve the Treasury of a redundant income, and that it will speedily be discontinued! Indeed, sir! What evidence have we of the fact? What evidence do we require to disprove the assertion? This scheme was commenced the last session; it has been introduced at this; and let me tell you, Mr. Speaker, it never will be abandoned so long as the high tariff party can wheedle the people with a siren lullaby, and cheat them out of their rights, by dazzling the vision with gold, and deluding the fancy by the attributes of sophistry. Depend upon it, sir, if this baleful system of distribution be not nipped in the bud, it will betray the people into submission by a species of taxation which no nation on earth should endure. Sir, continued Mr. Y., I enter my protest against a system of bargain and corruption, which is to be executed by parties of different political complexions, for the purpose of dividing the *spoils* which they have plundered from the people. If the sales of the public lands are to be continued for the benefit of the speculators who go to the West in multitudes for the purpose of *legally stealing* the lands and improvements of the people of the new States, I hope my constituents may know who it is that thus imposes upon them a system of *legalized fraud and oppression*. If, sir, my constituents are to be sacrificed by the maintenance of a system of persecution, got up and carried on for the purpose of filling the pockets of others to their ruin, I wish them to know who is the author of the enormity. I had hoped, Mr. Speaker, and that hope has not yet been abandoned, that if ever this branch of the government is bent on the destruction of the rights of the people, and a violation of the Constitution, there is yet one ordeal for it to pass where it may be shorn of its baneful aspect. And, Mr. Speaker, I trust in God that, in its passage through that ordeal, it will find a *quietus*."

Mr. Bell's motion succeeded. The second "deposit" act, by a vote of 112 to 70, was engrafted on the appropriation bill for completing and constructing fortifications; and, thus loaded, that bill went to the Senate. Being referred to the Committee on Finance, that committee directed their chairman, Mr. Wright of New-York, to move to strike it out. The motion was resisted by Mr. Calhoun, Mr. Clay, Mr. Webster, Mr. White of Tennessee, Mr. Ewing of Ohio, Crittenden, Preston, Southard, and Clayton; and supported by Messrs. Wright, Benton, Bedford Brown, Buchanan, Grundy, Niles of Connecticut, Rives, Strange of North Carolina: and being put to the vote, the motion was carried, and the "deposit" clause struck from the bill by a vote of 26 to 19. The yeas and nays were:

"YEAS—Messrs. Benton, Black, Brown, Cuthbert, Ewing of Illinois, Fulton, Grundy, Hubbard, King of Alabama, King of Georgia, Linn, Lyon, Nicholas, Niles, Norvell, Page, Parker, Rives, Ruggles, Sevier, Strange, Tallmadge, Walker, Wall, Wright—26.

"NAYS—Messrs. Bayard, Calhoun, Clayton, Crittenden, Davis, Ewing of Ohio, Hendricks, Kent, Knight, Moore, Prentiss, Preston, Robbins, Southard, Spence, Swift, Tomlinson, Webster, White—19."

Being returned to the House, a motion was made to disagree to the Senate's amendment, and argued with great warmth on each side, the opponents to the "deposit" reminding its friends

of the loss of a previous appropriation bill for fortifications; and warning them that their perseverance must now have the same effect, and operate a sacrifice of defence to the spirit of distribution: but all in vain. The motion to disagree was carried—110 to 94. The disputed clause then went through all the parliamentary forms known to the occasion. The Senate "insisted" on its amendment: a motion to "recede" was made and lost in the House: a motion to "adhere" was made, and prevailed: then the Senate "adhered": then a committee of "conference" was appointed, and they "disagreed." This being reported to the Houses, the bill fell—the fortification appropriations were lost: and in this direct issue between the plunder of the country, and the defence of the country, defence was beaten. Such was the deplorable progress which the spirit of distribution had made.

CHAPTER CLVII.

MILITARY ACADEMY: ITS RIDING-HOUSE.

THE annual appropriation bill for the support of this Academy contained a clause for the purchase of forty horses, "for instruction in light artillery and cavalry exercise;" and proposed ten thousand dollars for the purpose. This purchase was opposed, and the clause stricken out. The bill also contained a clause proposing thirty thousand dollars, in addition to the amount theretofore appropriated, for the erection of a building for "recitation and military exercises," as the clause expressed itself. It was understood to be for the riding-house in bad weather. Mr. McKay, of North Carolina, moved to strike out the clause, upon the ground that military men ought to be inured to hardship, not pampered in effeminacy; and that, as war was carried on in the field, so young officers should be learned to ride in the open air, and on rough ground, and to be afraid of no weather. The clause was stricken out, but restored upon re-consideration; in opposition to which Mr. Smith, of Maine, was the principal speaker; and said:

"I beg leave to call the attention of the committee to the paragraph of this bill proposed to be stricken out. It is an appropriation of thirty thousand dollars, in addition to the amount already appropriated, for the erection of a building within which to exercise and drill the cadets at West Point. The gentleman from Pennsylvania [Mr. Ingersoll] who reported this bill, and who never engages himself in any subject without making himself entire master of all its parts, will do the committee the justice, I trust, to inform them, when he shall next take the floor, what the amount heretofore appropriated for this same building, in which to exercise the cadets, actually has been; that, if we decide on the propriety of having such a building, we may also know how much we have heretofore taken from the public Treasury for its erection, and to what sum the thirty thousand dollars now proposed will be an addition.

"The honorable gentleman from New-York [Mr. Cambreleng] says this proposed building is to protect the cadets during the inclemency of the winter season, when the snow is from two to six feet deep; and has urged upon the committee the extreme hardship of requiring the cadets to perform their exercises in the open air in such an inclement and cold region as that where West Point is situated. Sir, if the gentleman would extend his inquiries somewhat further North or East, he would find that at points where the winters are still more inclement than at West Point, and where the snow lies for months in succession from two to eight feet deep, a very large and useful and respectable portion of the citizens not only incur the snows and storms of winter by day without workshops or buildings to protect them, but actually pursue the business of months amid such snows and storms, without a roof, or board, or so much as a shingle to cover and protect them by either day or night, and do not dream of murmuring. But, forsooth, the young cadet at West Point, who goes there to acquire an education for himself, who is clothed and fed, and even paid for his time, by the government while acquiring his education, cannot endure the atmosphere of West Point, without a magnificent building to shield him during the few hours in the week, while in the act of being drilled, as part of his education! The government is called upon to appropriate thirty thousand dollars, in addition to what has already been appropriated for the purpose, to protect the young cadet, who is preparing to be a soldier, against this temporary and yet most salutary exposure, as I esteem it. Sir, is Congress prepared thus to pamper the effeminacy of these young gentlemen, at such an expense, too, upon the public Treasury? Is it not enough to educate them for nothing, and to pay them for their time while you are educating them, and that you provide for their comfortable subsistence, comfortable lodgings, and all the ordinary comforts, not to say numerous luxuries of life, without attempting to keep them for ever within doors, to be raised like children? I am opposed to it; and I think, whenever the people of this nation shall be made acquainted with the fact, they too will be opposed to it.

"The gentleman from New-York says the exposure of the cadets is very great and that

among other duties, they are required to perform camp duties for three months in the year. It is true, sir, that the law of Congress imposes three months' camp duty upon the cadet. But the same tender spirit of guardianship which has suggested the expediency of housing the cadets from the atmosphere while performing their drill duties and exercises has in some way construed away one third of the law of Congress upon this subject; and, instead of three months' camp duty, as the law requires, the cadets are required, by the rules and regulations of the institution, to camp out only two months of the year; and for this purpose, sir, every species of camp utensils and camp furniture that government money can purchase is provided for them; and this same duty, thus pictured forth here by the gentleman from New-York as a severe hardship, is in fact so tempered to the cadets as to become a mere luxury—a matter of absolute preference among the cadets. The gentleman from New-York will find, by the rules and regulations of the Academy, the months of July and August, or of August and September, are selected for this camp duty: seasons of the year, sir, when it is absolutely a luxury and privilege for the cadets to leave their close quarters and confined rooms, to perform duty out door, and to spend the nights in their well-furnished camps. Sir, the hardships and exposures of the cadets are nothing compared with those of the generality of our fellow-citizens in the North, in their ordinary pursuits; and yet we are called upon to add to their luxuries—two hundred and fifty dollar horses to ride, splendid camp equipage to protect them from the dews and damp air of summer, and magnificent buildings to shield them in their winter exercises. I think it is high time for Congress, and for the people of this nation, to reflect seriously upon these matters, and to inquire with somewhat of particularity into the character of this institution.

"But the honorable gentleman from Pennsylvania (Mr. Ingersoll), has volunteered to put the reputation of the West Point Academy for morality in issue at this time, and sets it out in eloquent description, as pre-eminently pure and irreproachable in this respect.

"Sir, does not the honorable gentleman know that the history of this institution, within a few years back only, bears quite different testimony upon this subject? Does not the gentleman know the fact—a fact well substantiated by the Register of Debates in your library—that only a few years since the government was forced into the necessity of purchasing up, at an expense of ten thousand dollars, a neighboring tavern stand, as the only means of saving the institution from being overwhelmed and ruined by the gross immoralities of the cadets? Is not the gentleman aware that the whole argument urged to force and justify the government into this purchase was, that the moral power of the Academy was unequal to the counter influences of the neighboring tavern? And are we to be told, sir, that this institution stands forth in its history pre-eminently pure, and above comparison with the institutions that exist upon the private enterprise and munificence, and thirst for knowledge, that characterize our countrymen? I make these suggestions, and allude to these facts, not voluntarily, and from a wish to create a discussion upon either the merits or demerits of the Academy. When I made the proposition to strike from this bill the ten thousand dollars proposed to be appropriated for the purchase of horses, I neither inteded nor desired to enter into a discussion of the institution. I have not now spoken, except upon the impulse given by the remarks of the gentlemen from New-York and Pensylvania; and now, instead of going into the facts that do exist in relation to the Academy, I can assure gentlemen that I have but scarcely approached them. I have been willing, and am now willing, to have these facts brought to light at another time, and upon a proper occasion that will occur hereafter, and leave the people of this nation to judge of them dispassionately. A report upon the subject of this institution will be made shortly, as the honorable gentleman from Kentucky (Mr. Hawes) has assured the house. From that report, all will be able to form an opinion as to the policy of the institution in its present shape and under its present discipline. That some grave objections exist to both its shape and discipline, I think all will agree. But I wish not to discuss either at this time. Let us know, however, and let the country know, something about the expensive buildings now in progress at West Point, before we conclude to add this further appropriation of thirty thousand dollars to the expenses of the institution; and, while I am up, I will call the attention of the honorable gentleman who reported this bill to another item in it, which embraces forage for horses among other matters, and I wish him to specify to the committee what proportion of the sum of over thirteen thousand dollars contained in this item. is based upon the supposed supply of forage. We have stricken out the appropriation for purchasing horses, and another part of the bill provides forage for the officers' horses; hence a portion of the item now adverted to should probably be stricken out."

The debate became spirited and discursive, grave and gay, and gave rise to some ridiculous suggestions, as that if it was necessary to protect these young officers from bad weather when exercising on horseback, it ought to be done in no greater degree than young women are protected in like circumstances—parasols for the sun, umbrellas for rain, and pelisses for cold: which it was insisted would be a great economy. On the other hand it was insisted that riding-houses were appurtenant to the military colleges of Europe, and that fine riders were trained in

these schools. The $30,000, in addition to previous appropriations for the same purpose, was granted; but has been found to be insufficient; and a late Board of Visitors, following the lead of the Superintendent of the Academy, and powerfully backed by the War Office, at Washington City, has earnestly recommended a further additional appropriation of $20,000, still further to improve the riding-house; on the ground that, "the room now used for the purpose is extremely dangerous to the lives and limbs of the cadets." This further accommodation is deemed indispensable to the proper teaching of the art of "equitation:" that is to say, to the art of riding on the back of a horse; and the Visitors recommend this accommodation to Congress, in the following pathetic terms: "The attention of the committee has been drawn to the consideration of the expediency of erecting a new building for cavalry exercise. We are aware that the subject has been before Congress, upon the recommendation of former boards of Visitors, and we cannot add to the force of the arguments made use of by them, in favor of the measure. We would regret to be compelled to believe that there is a greater indifference to the safety of human life and limb in this country than in most others. It is enough for us to say that, in the opinion of the Superintendent, the course of equitation cannot be properly taught without it, 'and that the room now used for the purpose is extremely dangerous to the lives and limbs of the cadets.' In this opinion, we entirely concur. The appropriation required for the erection of such a building will amount to some $20,000. We can hardly excuse ourselves, if we neglect to bring this subject, so far as we are able to do so, most emphatically to the notice of those who have the power, and, we doubt not, the disposition also, to remove the evil."

CHAPTER CLVIII.

SALT TAX: MR. BENTON'S FOURTH SPEECH AGAINST IT.

THE amount which this tax brings into the treasury is about 600,000 dollars, and that upon an article costing about 650,000 dollars; and one-half of the tax received goes to the fishing bounties and allowances founded upon it. So that what upon the record is a tax of about 100 per centum, is in the reality a tax of 200 per centum; and that upon an article of prime necessity and universal use, while we have articles of luxury and superfluity—wines, silks—either free of tax, or nominally taxed at some ten or twenty per centum. The bare statement of the case is revolting and mortifying; but it is only by looking into the detail of the tax—its amount upon different varieties of salt—its effect upon the trade and sale of the article—upon its importation and use—and the consequences upon the agriculture of the country, for want of adequate supplies of salt—that the weight of the tax, and the disastrous effects of its imposition, can be ascertained. To enable the Senate to judge of these effects and consequences, and to render my remarks more intelligible, I will read a table of the importation of salt for the year 1835—the last that has been made up—and which is known to be a fair index to the annual importations for many years past. With the number of bushels, and the name of the country from which the importations come, will be given the value of each parcel at the place it was obtained, and the original cost per bushel.

Statement of the quantity of Salt imported into the United States during the year 1835, with the value and cost thereof, per bushel, at the place from which it was imported:

Countries.	No. of bushels.		Cost p. bus.
Sweden and Norway,	8,556	$572	6 3-4
Swedish West Indies,	6,856	708	10 1-4
Danish West Indies,	2,351	386	16
Dutch West Indies,	141,566	12,967	9
England,	2,613,077	412,507	16 1-2
Ireland,	51,954	12,276	
Gibraltar,	17,832	1,385	7 3-4
Malta,	1,500	118	7 3-4
British West Indies,	959,786	98,497	10
British Am. Colonies,	138,593	30,374	
France on Mediterranean,	32,648	2,155	6 2-3
Spain on Atlantic,	360,140	16,760	4 3-4
Spain on Mediterran.,	101,000	5,443	5 1-3
Portugal,	780,000	55,087	7
Cape de Verd Islands,	8,134	751	9 1-10
Italy,	36,742	1,580	4 1-3
Sicily,	5,786	156	2 2-3
Trieste,	7,888	255	3 7-8
Turkey,	9,377	984	10 1-10
Colombia,	17,162	1,227	
Brazil,	250	68	
Argentine Republic,	402	41	
Africa,	5,733	615	10 2-3
	5,735,364	655 000	

Mr. B. would remark that salt, being brought in ballast, the greatest quantity came from England, where we had the largest trade; and that its importation, with a tax upon it, being merely incidental to trade, this greatest quantity came from the place where it cost most, and was of far inferior kind. The salt from England was nearly one half of the whole quantity imported; its cost was about sixteen cents a bushel; and its quality was so inferior that neither in the United States, nor in Great Britain, could it be used for curing provisions, fish, butter, or any thing that required long keeping, or exposure to southern heats. This was the salt commonly called Liverpool. It was made by artificial heat, and never was, and never can be made pure, as the mere agitation of the boiling prevents the separation of the *bittern*, and other foreign and poisonous ingredients with which all salt water, and even mineral salt, is more or less impregnated. The other half of the imported salt costs far less than the English salt, and is infinitely superior to it; so far superior that the English salt will not even serve for a substitute in the important business of curing fish, and flesh, for long keeping, or southern exposure. This salt was made by the action of the sun in the latitudes approaching, and under the tropics. We begin to obtain it in the West Indies, and in large quantity on Turk's Island; and get it from all the islands and coasts, under the sun's track, from the Gulf of Mexico to the Black Sea. The Cape de Verd Islands, the Atlantic and Mediterranean coasts of Spain and Portugal, the Mediterranean coast of France, the two coasts of Italy, the islands in the Mediterranean, the coasts of the Adriatic, the Archipelago, up to the Black Sea, all produce it and send it to us. The table which has been read shows that the original cost of this salt—the purest and strongest in the world—is about nine or ten cents a bushel in the Gulf of Mexico; five, six and seven cents on the coasts of France, Spain and Portugal; three and four cents in Italy and the Adriatic; and less than three cents in Sicily. Yet all this salt bears one uniform duty; it was all twenty cents a bushel, and is now near ten cents a bushel; so that while the tax on the English salt is a little upwards of fifty per cent. on the value, the same tax on all the other salt is from one hundred to two hundred, and three hundred and near four hundred per cent. The sun-made salt is chiefly used in the Great West, in curing provisions; the Liverpool is chiefly used on the Atlantic coasts; and thus the people in different sections of the Union pay different degrees of tax upon the same articles, and that which costs least is taxed most. A tax ranging to some hundred per cent. is in itself an enormous tax; and thus the duty collected by the federal government from all the consumers of the sun-made salt, is in itself excessive; amounting, in many instances, to double, treble, or even quadruple the original cost of the article. This is an enormity of taxation which strikes the mind at the first blush; but, it is only the beginning of the enormity, the extent of which is only discoverable in tracing its effects to all their diversified and injurious consequences. In the first place, it checks and prevents the importation of the salt. Coming as ballast, and not as an article of commerce on which profit is to be made, the shipper cannot bring it except he is supplied with money to pay the duty, or surrenders it into the hands of salt dealers, on landing, to go his security for the payment of the duty. Thus, the importation of the article is itself checked; and this check operates with the greatest force in all cases where the original price of the salt was least; and, therefore, where it operates most injuriously to the country. In all such cases the tax operates as a prohibition to use salt as ballast, and checks its importation from all the places of its production nearest the sun's track, from the Gulf of Mexico to Constantinople. In the next place, the imposition of the tax throws the salt into the hands of an intermediate set of dealers in the seaports, who either advance the duty, or go security for it, and who thus become possessed of nearly all the salt which is imported. A few persons employed in this business engross the salt, and fix the price for all in the market; and fix it higher or lower, not according to the cost of the article, but according to the necessities of the country, and the quantity on hand, and the season of the year. The prices at which they fix it are known to all purchasers, and may be seen in all prices-current. It is generally, in the case of alum salt, four, five, ten, or fifteen times as much as it cost. It is generally forty, or fifty, or sixty cents a bushel, and nearly the same price for all sorts, without any reference to the original cost, whether it cost three cents, or five

cents, or ten cents, or fifteen cents a bushel. About one uniform price is put on the whole, and the purchaser has to submit to the imposition. This results from the effect of the tax, throwing the article, which is nothing but ballast, into the hands of salt dealers. The importer does not bring more money than the salt is worth, to pay the duty; he does not come prepared to pay a heavy duty on his ballast; he has to depend upon raising the money for paying the duty after he arrives in the United States; and this throws him into the hands of the salt dealer, and subjects the country purchaser to all the fair charges attending this change of hands, and this establishment of an intermediate dealer, who must have his profits; and also to all the additional exactions which he may choose to make. This should not be. There should be no costs, nor charges, nor intermediate profits, on such an article as salt. It comes as ballast; as ballast it should be handed out—should be handed from the ship to the steamboat—should escape port charges, and intermediate profits—and this would be the case, if the duty was abolished. Thus the charges, costs, profits, and exactions, in consequence of the tax, are greater than the tax itself! But this is not all—a further injury, resulting from the tax, is yet to be inflicted upon the consumer. It is well known that the measured bushel of alum salt, and all sun-made salt is alum salt—it is well known that a bushel of this salt weighs about eighty-four pounds; yet the custom-house bushel goes by weight, and not by measure, and fifty-six pounds is there the bushel. Thus the consumer, in consequence of having the salt sent through the custom-house, is shifted from the measured to the weighed bushel, and loses twenty-eight pounds by the operation! but this is not his whole loss; the intermediate salt dealer deducts six pounds more, and gives fifty pounds for the bushel; and thus this taxed and custom-housed article, after paying some hundred per cent. to the government and several hundred per cent. more to the regraters, is worked into a loss of thirty-four pounds on every bushel! All these losses and impositions would vanish, if salt was freed from the necessity of passing the custom-houses; and to do that, it must be freed *in toto* from taxation. The slightest duty would operate nearly the whole mischief, for it would throw the article into the hands of regraters, and would substitute the weighed for the measured bushel.

Such are the direct injuries of the salt tax; a tax enormous in itself, disproportionate in its application to the same article in different parts of the Union, and bearing hardest upon that kind which is cheapest, best, and most indispensable. The levy to the government is enormous, $650,000 per annum upon an article only worth about $600,000; but what the government receives is a trifle, compared to what is exacted by the regrater,—what is lost in the difference between the weighed and the measured bushel,—and the loss which the farmer sustains for want of adequate supplies of salt for his stock, and their food. Assuming the government tax to be ten cents a bushel, the average cost of alum salt to be seven cents, and the regrater's price to be fifty cents, and it is clear that he receives upwards of three times as much as the government does; and that the tribute to those regraters is near two millions of dollars per annum. Assuming again that thirty-four pounds in the bushel are lost to the consumer in the substitution of the weighed for the measured bushel, and here is another loss amounting to nearly three-eighths of the value of the salt; that is to say, to about $250,000 on an importation of $650,000 worth.

These detailed views of the operation and effects of the salt duty, continued Mr. B., place the burdens of that tax in the most odious and revolting light; but the picture is not yet complete; two other features are to be introduced into it, each of which, separately, and still more, both put together, go far to double its enormity, and to carry the iniquity of such a tax up to the very verge of criminality and sinfulness. The first of these features is, in the loss which the farmers sustain for want of adequate supplies of salt for their stock; and the second, from the fact that the duty is a one-sided tax, being imposed only on some sections of the Union, and not at all upon another section of the Union. A few details will verify these additional features. First, as to the loss which the country sustains for want of adequate supplies of salt. Every practical man knows that every description of stock requires salt—hogs, horses, cattle, sheep; and that all the prepared food of cattle requires it also—hay, fodder, clover, shucks, &c. In England it is ascertained, by

experience, that sheep require, each, half a pound a week, which is twenty-eight pounds, or half a custom-house bushel, per annum; cows require a bushel and a half per annum; young cattle a bushel; draught horses, and draught cattle, a bushel; colts, and young cattle, from three pecks to a bushel each, per annum; and it was computed in England, before the abolition of the salt-tax there, that the stock of the English farmers, for want of adequate supplies of salt, was injured to an annual amount far beyond the product of the tax.

Dr. Young, before a committee of the British House of Commons, and upon oath, testified to his belief that the use of salt free of tax would benefit the agricultural interest, in the increased value of their stock alone, to the annual amount of three millions sterling, near fifteen millions of dollars. Such was the injury of the salt-tax in England to the agricultural interest in the single article of stock. What the injury might be to the agricultural interest in the United States on the same article, on account of the stinted use of salt occasioned by the tax, might be vaguely conceived from general observation and a few established facts. In the first place, it was known to every body that stock in our country was stinted for salt; that neither hogs, horses, cattle, or sheep, received any thing near the quantity found by experience to be necessary in England; and, as for their food, that little or no salt was put upon it in the United States; while in England, ten or fifteen pounds of salt to the ton of hay, clover, &c. was used in curing it. Taking a single branch of the stock of the United States, that of sheep, and more decided evidence of the deplorable deficiency of salt cannot be produced. The sheep in the United States were computed by the wool-growers, in 1832, in their petitions to Congress, at twenty millions; this number, at half a bushel each, would require about ten millions of bushels; now the whole supply of salt in the United States, both home-made and imported, barely exceeds ten millions; so that, if the sheep received an adequate supply, there would not remain a pound for any other purpose! Of course, the sheep did not receive an adequate supply, nor perhaps the fourth part of what was necessary; and so of all other stock. To give an opinion of the total loss to the agricultural interest in the United States for want of the free use of this article, would require the minute, comprehensive, sagacious, and peculiar turn of mind of Dr. Young; but it may be sufficient for the argument, and for all practical purposes, to assume that our loss, in proportion to the number of our stock, is greater than that of the English farmers, and amounts to fifteen or twenty times the value of the tax itself!

CHAPTER CLIX.

EXPUNGING RESOLUTION—PREPARATION FOR DECISION.

It was now the last session of the last term of the presidency of General Jackson, and the work of the American Senate doing justice to itself by undoing the wrong which it had done to itself in its condemnation of the President, was at hand. The appeal to the people had produced its full effect; and, in less time than had been expected. Confident from the beginning in the verdict of the people, the author of the movement had not counted upon its delivery until several years—probably until after the retirement of General Jackson, and until the subsidence of the passions which usually pursue a public man while he remains on the stage of action. Contrary to all expectation, the public mind was made up in less than three years, and before the termination of that second administration which was half run when the sentence of condemnation was passed. At the commencement of this session, 1836–'37, the public voice had come in, and in an imperative form. A majority of the States had acted decisively on the subject—some superseding their senators at the end of their terms who had given the obnoxious vote, and replacing them by those who would expunge it; others sending legislative instructions to their senators, which carried along with them, in the democratic States, the obligation of obedience or resignation; and of which it was known there were enough to obey to accomplish the desired expurgation. Great was the number superseded, or forced to resign. The great leaders, Mr. Clay, Mr. Webster, Mr. Calhoun, easily maintained themselves in their

respective States; but the mortality fell heavily upon their followers, and left them in a helpless minority. The time had come for action; and on the second day after the meeting of the Senate, Mr. Benton gave notice of his intention to bring in at an early period the unwelcome resolution, and to press it to a decision. Heretofore he had introduced it without any view to action, but merely for an occasion for a speech, to go to the people; but the opposition, exulting in their strength, would of themselves call it up, against the wishes of the mover, to receive the rejection which they were able to give it. Now these dispositions were reversed; the mover was for decision—they for staving it off. On the 26th day of December—the third anniversary of the day on which Mr. Clay had moved the condemnatory resolution—Mr. Benton laid upon the table the resolve to expunge it—followed by his third and last speech on the subject. The following is the resolution; the speech constitutes the next chapter:

Resolution to expunge from the Journal the Resolution of the Senate of March 28, 1834, *in relation to President Jackson and the Removal of the Deposits.*

"Whereas, on the 26th day of December, in the year 1833, the following resolve was moved in the Senate:

"'*Resolved*, That, by dismissing the late Secretary of the Treasury, because he would not, contrary to his own sense of duty, remove the money of the United States in deposit with the Bank of the United States and its branches, in conformity with the President's opinion, and by appointing his successor to effect such removal, which has been done, the President has assumed the exercise of a power over the Treasury of the United States, not granted him by the Constitution and laws, and dangerous to the liberties of the people.'

"Which proposed resolve was altered and changed by the mover thereof, on the 28th day of March, in the year 1834, so as to read as follows:

"'*Resolved*, That, in taking upon himself the responsibility of removing the deposit of the public money from the Bank of the United States, the President of the United States has assumed the exercise of a power over the Treasury of the United States not granted to him by the constitution and laws, and dangerous to the liberties of the people.'

"Which resolve, so changed and modified by the mover thereof, on the same day and year last mentioned, was further altered, so as to read in these words:

"'*Resolved*, That the President, in the late executive proceedings in relation to the revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both:'

"In which last mentioned form the said resolve, on the same day and year last mentioned, was adopted by the Senate, and became the act and judgment of that body, and, as such, now remains upon the journal thereof:

"And whereas the said resolve was not warranted by the constitution, and was irregularly and illegally adopted by the Senate, in violation of the rights of defence which belong to every citizen, and in subversion of the fundamental principles of law and justice; *because* President Jackson was thereby adjudged and pronounced to be guilty of an impeachable offence, and a stigma placed upon him as a violator of his oath of office, and of the laws and constitution which he was sworn to preserve, protect, and defend, *without* going through the forms of an impeachment, and without allowing to him the benefits of a trial, or the means of defence:

"And whereas the said resolve, in all its various shapes and forms, was unfounded and erroneous in point of fact, and therefore unjust and unrighteous, as well as irregular and unauthorized by the constitution; *because* the said President Jackson neither in the act of dismissing Mr. Duane, nor in the appointment of Mr. Taney, as specified in the first form of the resolve; nor in taking upon himself the responsibility of removing the deposits, as specified in the second form of the same resolve; nor in any act which was then, or can now, be specified under the vague and ambiguous terms of the general denunciation contained in the third and last form of the resolve, did do or commit any act in violation or in derogation of the laws and constitution; or dangerous to the liberties of the people:

"And whereas the said resolve, as adopted, was uncertain and ambiguous, containing nothing but a loose and floating charge for derogating from the laws and constitution, and assuming ungranted power and authority in the late executive proceedings in relation to the public revenue; *without* specifying what part of the executive proceedings, or what part of the public revenue was intended to be referred to; or what parts of the laws and constitution were supposed to have been infringed; or in what part of the Union, or at what period of his administration, these late proceedings were supposed to have taken place; *thereby* putting each senator at liberty to vote in favor of the resolve upon a separate and secret reason of his own, and leaving the ground of the Senate's judgment to be guessed at by the public, and to be differently and diversely interpreted by individual senators, according to the private and particular understanding of each: *contrary* to all the ends of justice, and to all the forms of legal or judicial proceeding; to the great prejudice of the accused, who could not know against what to

defend himself; and to the loss of senatorial responsibility, by shielding senators from public accountability for making up a judgment upon grounds which the public cannot know, and which, if known, might prove to be insufficient in law, or unfounded in fact:

"And whereas the specification contained in the first and second forms of the resolve having been objected to in debate, and shown to be insufficient to sustain the charges they were adduced to support, and it being well believed that no majority could be obtained to vote for the said specifications, and the same having been actually withdrawn by the mover in the face of the whole Senate, in consequence of such objection and belief, and before any vote taken thereupon; the said specifications could not afterwards be admitted by any rule of parliamentary practice, or by any principle of legal implication, secret intendment, or mental reservation, to remain and continue a part of the written and public resolve from which they were thus withdrawn; and, if they could be so admitted, they would not be sufficient to sustain the charges therein contained:

"And whereas the Senate being the constitutional tribunal for the trial of the President, when charged by the House of Representatives with offences against the laws and the constitution, the adoption of the said resolve, before any impeachment preferred by the House, was a breach of the privileges of the House; not warranted by the constitution; a subversion of justice; a prejudication of a question which might legally come before the Senate; and a disqualification of that body to perform its constitutional duty with fairness and impartiality, if the President should thereafter be regularly impeached by the House of Representatives for the same offence:

"And whereas the temperate, respectful, and argumentative defence and protest of the President against the aforesaid proceeding of the Senate was rejected and repulsed by that body, and was voted to be a breach of its privileges, and was not permitted to be entered on its journal or printed among its documents; while all memorials, petitions, resolves, and remonstrances against the President, however violent or unfounded, and calculated to inflame the people against him, were duly and honorably received, encomiastically commented upon in speeches, read at the table, ordered to be printed with the long list of names attached, referred to the Finance Committee for consideration, filed away among the public archives, and now constitute a part of the public documents of the Senate, to be handed down to the latest posterity:

"And whereas the said resolve was introduced, debated, and adopted, at a time and under circumstances which had the effect of co-operating with the Bank of the United States in the parricidal attempt which that institution was then making to produce a panic and pressure in the country; to destroy the confidence of the people in President Jackson; to paralyze his administration; to govern the elections; to bankrupt the State banks; ruin their currency; fill the whole Union with terror and distress; and thereby to extort from the sufferings and the alarms of the people, the restoration of the deposits and the renewal of its charter:

"And whereas the said resolve is of evil example and dangerous precedent, and should never have been received, debated, or adopted by the Senate, or admitted to entry upon its journal: Wherefore,

"*Resolved*, That the said resolve be expunged from the journal; and, for that purpose, that the Secretary of the Senate, at such time as the Senate may appoint, shall bring the manuscript journal of the session 1833 '34 into the Senate, and, in the presence of the Senate, draw black lines round the said resolve, and write across the face thereof, in strong letters, the following words: 'Expunged by order of the Senate, this — day of ——, in the year of our Lord 1837.'"

CHAPTER CLX.

EXPUNGING RESOLUTION.—MR. BENTON'S THIRD SPEECH.

Mr. President: It is now near three years since the resolve was adopted by the Senate, which it is my present motion to expunge from the journal. At the moment that this resolve was adopted, I gave notice of my intention to move to expunge it; and then expressed my confident belief that the motion would eventually prevail. That expression of confidence was not an ebullition of vanity, or a presumptuous calculation, intended to accelerate the event it affected to foretell. It was not a vain boast, or an idle assumption, but was the result of a deep conviction of the injustice done President Jackson, and a thorough reliance upon the justice of the American people. I felt that the President had been wronged; and my heart told me that this wrong would be redressed! The event proves that I was not mistaken. The question of expunging this resolution has been carried to the people, and their decision has been had upon it. They decide in favor of the expurgation; and their decision has been both made and manifested, and communicated to us in a great variety of ways. A great number of

States have expressly instructed their senators to vote for this expurgation. A very great majority of the States have elected senators and representatives to Congress, upon the express ground of favoring this expurgation. The Bank of the United States, which took the initiative in the accusation against the President, and furnished the material, and worked the machinery which was used against him, and which was then so powerful on this floor, has become more and more odious to the public mind, and musters now but a slender phalanx of friends in the two Houses of Congress. The late Presidential election furnishes additional evidence of public sentiment. The candidate who was the friend of President Jackson, the supporter of his administration, and the avowed advocate for the expurgation, has received a large majority of the suffrages of the whole Union, and that after an express declaration of his sentiments on this precise point. The evidence of the public will, exhibited in all these forms, is too manifest to be mistaken, too explicit to require illustration, and too imperative to be disregarded. Omitting details and specific enumeration of proofs, I refer to our own files for the instructions to expunge,—to the complexion of the two Houses for the temper of the people,—to the denationalized condition of the Bank of the United States for the fate of the imperious accuser,—and to the issue of the Presidential election for the answer of the Union. All these are pregnant proofs of the public will, and the last pre-eminently so: because, both the question of the expurgation, and the form of the process, was directly put in issue upon it. A representative of the people from the State of Kentucky formally interrogated a prominent candidate for the Presidency on these points, and required from him a public answer for the information of the public mind. The answer was given, and published, and read by all the voters before the election; and I deem it right to refer to that answer in this place, not only as evidence of the points put in issue, but also for the purpose of doing more ample justice to President Jackson by incorporating into the legislative history of this case, the high and honorable testimony in his favor of the eminent citizen, Mr. Van Buren, who has just been exalted to the lofty honors of the American Presidency:

"Your last question seeks to know 'my' opinion as to the constitutional power of the Senate or House of Representatives to expunge or obliterate from the journals the proceedings of a previous session.

"You will, I am sure, be satisfied upon further consideration, that there are but few questions of a political character less connected with the duties of the office of President of the United States, or that might not with equal propriety be put by an elector to a candidate for that station, than this. With the journals of neither house of Congress can he properly have any thing to do. But, as your question has doubtless been induced by the pendency of Col. Benton's resolutions, to expunge from the journals of the Senate certain other resolutions touching the official conduct of President Jackson, I prefer to say, that I regarded the passage of Col. Benton's preamble and resolutions to be an act of justice to a faithful and greatly injured public servant, not only constitutional in itself, but imperiously demanded by a proper respect for the well known will of the people."

I do not propose, sir, to draw violent, unwarranted, or strained inferences. I do not assume to say that the question of this expurgation was a leading, or a controlling point in the issue of this election. I do not assume to say, or insinuate, that every individual, and every voter, delivered his suffrage with reference to this question. Doubtless there were many exceptions. Still, the triumphant election of the candidate who had expressed himself in the terms just quoted, and who was, besides, the personal and political friend of President Jackson, and the avowed approver of his administration, must be admitted to a place among the proofs in this case, and ranked among the high concurring evidences of the public sentiment in favor of the motion which I make.

Assuming, then, that we have ascertained the will of the people on this great question, the inquiry presents itself, how far the expression of that will ought to be conclusive of our action here? I hold that it ought to be binding and obligatory upon us! and that, not only upon the principles of representative government, which requires obedience to the known will of the people, but also in conformity to the principles upon which the proceeding against President Jackson was conducted when the sentence against him was adopted. Then every thing was done with especial reference to the will of the people! Their impulsion was assumed to be the sole motive to action; and to them the

ultimate verdict was expressly referred. The whole machinery of alarm and pressure—every engine of political and moneyed power—was put in motion, and worked for many months, to excite the people against the President; and to stir up meetings, memorials, petitions, travelling committees, and distress deputations against him; and each symptom of popular discontent was hailed as an evidence of public will, and quoted here as proof that the people demanded the condemnation of the President. Not only legislative assemblies, and memorials from large assemblies, were then produced here as evidence of public opinion, but the petitions of boys under age, the remonstrances of a few signers, and the results of the most inconsiderable elections, were ostentatiously paraded and magnified, as the evidence of the sovereign will of our constituents. Thus, sir, the public voice was every thing while that voice, partially obtained through political and pecuniary machinations, was adverse to the President. Then the popular will was the shrine at which all worshipped. Now, when that will is regularly, soberly, repeatedly, and almost universally expressed through the ballot boxes, at the various elections, and turns out to be in favor of the President, certainly no one can disregard it, nor otherwise look at it than as the solemn verdict of the competent and ultimate tribunal upon an issue fairly made up, fully argued, and duly submitted for decision. As such verdict, I receive it. As the deliberate verdict of the sovereign people, I bow to it. I am content. I do not mean to reopen the case, nor to recommence the argument. I leave that work to others, if any others choose to perform it. For myself, I am content; and, dispensing with further argument, I shall call for judgment, and ask to have execution done, upon that unhappy journal, which the verdict of millions of freemen finds guilty of bearing on its face an untrue, illegal, and unconstitutional sentence of condemnation against the approved President of the Republic.

But, while declining to reopen the argument of this question, and refusing to tread over again the ground already traversed, there is another and a different task to perform; one which the approaching termination of President Jackson's administration makes peculiarly proper at this time, and which it is my privilege, and perhaps my duty, to execute, as being the suitable conclusion to the arduous contest in which we have been so long engaged; I allude to the general tenor of his administration, and to its effect, for good or for evil, upon the condition of his country. This is the proper time for such a view to be taken. The political existence of this great man now draws to a close. In little more than forty days he ceases to be a public character. In a few brief weeks he ceases to be an object of political hope to any, and should cease to be an object of political hate, or envy, to all. Whatever of motive the servile and timeserving might have found in his exalted station for raising the altar of adulation, and burning the incense of praise before him, that motive can no longer exist. The dispenser of the patronage of an empire—the chief of this great confederacy of States—is soon to be a private individual, stripped of all power to reward, or to punish. His own thoughts, as he has shown us in the concluding paragraph of that message which is to be the last of its kind that we shall ever receive from him, are directed to that beloved retirement from which he was drawn by the voice of millions of freemen, and to which he now looks for that interval of repose which age and infirmities require. Under these circumstances, he ceases to be a subject for the ebullition of the passions, and passes into a character for the contemplation of history. Historically, then, shall I view him; and limiting this view to his civil administration, I demand, where is there a chief magistrate of whom so much evil has been predicted, and from whom so much good has come? Never has any man entered upon the chief magistracy of a country under such appalling predictions of ruin and woe! never has any one been so pursued with direful prognostications! never has any one been so beset and impeded by a powerful combination of political and moneyed confederates! never has any one in any country where the administration of justice has risen above the knife or the bowstring, been so lawlessly and shamelessly tried and condemned by rivals and enemies, without hearing, without defence, without the forms of law or justice! History has been ransacked to find examples of tyrants sufficiently odious to illustrate him by comparison. Language has been tortured to find epithets sufficiently strong to paint him in description. Imagination has been exhausted in her efforts to deck him with revolting and

inhuman attributes. Tyrant, despot, usurper; destroyer of the liberties of his country; rash, ignorant, imbecile; endangering the public peace with all foreign nations; destroying domestic prosperity at home; ruining all industry, all commerce, all manufactures; annihilating confidence between man and man; delivering up the streets of populous cities to grass and weeds, and the wharves of commercial towns to the encumbrance of decaying vessels; depriving labor of all reward; depriving industry of all employment; destroying the currency; plunging an innocent and happy people from the summit of felicity to the depths of misery, want, and despair. Such is the faint outline, followed up by actual condemnation, of the appalling denunciations daily uttered against this one MAN, from the moment he became an object of political competition, down to the concluding moment of his political existence.

"The sacred voice of inspiration has told us that there is a time for all things. There certainly has been a time for every evil that human nature admits of to be vaticinated of President Jackson's administration; equally certain the time has now come for all rational and well-disposed people to compare the predictions with the facts, and to ask themselves if these calamitous prognostications have been verified by events? Have we peace, or war, with foreign nations? Certainly, we have peace with all the world! peace with all its benign, and felicitous, and beneficent influences! Are we respected, or despised abroad? Certainly the American name never was more honored throughout the four quarters of the globe, than in this very moment. Do we hear of indignity, or outrage in any quarter? of merchants robbed in foreign ports? of vessels searched on the high seas? of American citizens impressed into foreign service? of the national flag insulted any where? On the contrary, we see former wrongs repaired; no new ones inflicted. France pays twenty-five millions of francs for spoliations committed thirty years ago; Naples pays two millions one hundred thousand ducats for wrongs of the same date; Denmark pays six hundred and fifty thousand rix dollars for wrongs done a quarter of a century ago; Spain engages to pay twelve millions of reals vellon for injuries of fifteen years date; and Portugal, the last in the list of former aggressors, admits her liability, and only waits the adjustment of details to close her account by adequate indemnity. So far from war, insult, contempt, and spoliation from abroad; this denounced administration has been the season of peace and good will, and the auspicious era of universal reparation. So far from suffering injury at the hands of foreign powers, our merchants have received indemnities for all former injuries. It has been the day of accounting, of settlement, and of retribution. The total list of arrearages, extending through four successive previous administrations, has been closed and settled up. The wrongs done to commerce for thirty years back, and under so many different Presidents, and indemnities withheld from all, have been repaired and paid over under the beneficent and glorious administration of President Jackson. But one single instance of outrage has occurred, and that at the extremities of the world, and by a piratical horde, amenable to no law but the law of force. The Malays of Sumatra committed a robbery and massacre upon an American vessel. Wretches! they did not then know that JACKSON was President of the United States! and that no distance, no time, no idle ceremonial of treating with robbers and assassins, was to hold back the arm of justice. Commodore Downes went out. His cannon and his bayonets struck the outlaws in their den. They paid in terror and in blood for the outrage which was committed; and the great lesson was taught to these distant pirates—to our antipodes themselves—that not even the entire diameter of this globe could protect them! and that the name of American citizen, like that of Roman citizen in the great days of the Republic and of the empire, was to be the inviolable passport of all that wore it throughout the whole extent of the habitable world.

"At home, the most gratifying picture presents itself to the view: the public debt paid off; taxes reduced one half; the completion of the public defences systematically commenced; the compact with Georgia, uncomplied with since 1802, now carried into effect, and her soil ready to be freed, as her jurisdiction has been delivered, from the presence and encumbrance of an Indian population. Mississippi and Alabama, Georgia, Tennessee, and North Carolina; Ohio, Indiana, Illinois, Missouri, and Arkansas; in a word, all the States encumbered with an Indian population have been relieved from that

encumbrance; and the Indians themselves have been transferred to new and permanent homes, every way better adapted to the enjoyment of their existence, the preservation of their rights, and the improvement of their condition.

"The currency is not ruined! On the contrary, seventy-five millions of specie in the country is a spectacle never seen before, and is the barrier of the people against the designs of any banks which may attempt to suspend payments, and to force a dishonored paper currency upon the community. These seventy-five millions are the security of the people against the dangers of a depreciated and inconvertible paper money. Gold, after a disappearance of thirty years, is restored to our country. All Europe beholds with admiration the success of our efforts in three years, to supply ourselves with the currency which our constitution guarantees, and which the example of France and Holland shows to be so easily attainable, and of such incalculable value to industry, morals, economy, and solid wealth. The success of these efforts is styled in the best London papers, not merely a reformation, but a revolution in the currency! a revolution by which our America is now regaining from Europe the gold and silver which she has been sending to it for thirty years past.

Domestic industry is not paralyzed; confidence is not destroyed; factories are not stopped; workmen are not mendicants for bread and employment; credit is not extinguished; prices have not sunk; grass is not growing in the streets of populous cities; the wharves are not lumbered with decaying vessels; columns of curses, rising from the bosoms of a ruined and agonized people, are not ascending to heaven against the destroyer of a nation's felicity and prosperity. On the contrary, the reverse of all this is true! and true to a degree that astonishes and bewilders the senses. I know that all is not gold that glitters; that there is a difference between a specious and a solid prosperity. I know that a part of the present prosperity is apparent only—the effect of an increase of fifty millions of paper money, forced into circulation by one thousand banks; but, after making due allowance for this fictitious and delusive excess, he real prosperity of the country is still unprecedentedly and transcendently great. I know that every flow must be followed by its ebb, that every expansion must be followed by its contraction. I know that a revulsion of the paper system is inevitable; but I know, also, that these seventy-five millions of gold and silver is the bulwark of the country, and will enable every honest bank to meet its liabilities, and every prudent citizen to take care of himself.

Turning to some points in the civil administration of President Jackson, and how much do we not find to admire! The great cause of the constitution has been vindicated from an imputation of more than forty years' duration. He has demonstrated, by the fact itself, that a national bank is not 'necessary' to the fiscal operations of the federal government; and in that demonstration he has upset the argument of General Hamilton, and the decision of the Supreme Court of the United States, and all that ever has been said in favor of the constitutionality of a national bank. All this argument and decision rested on the single assumption of the 'necessity' of that institution to the federal government. He has shown it is not 'necessary;' that the currency of the constitution, and especially a gold currency, is all that the federal government wants, and that she can get that whenever she pleases. In this single act, he has vindicated the constitution from an unjust imputation, and knocked from under the decision of the Supreme Court the assumed fact on which it rested. He has prepared the way for the reversal of that decision; and it is a question for lawyers to answer, whether the case is not ripe for the application of that writ of most remedial nature, as Lord Coke calls it, and which was invented, lest, in any case, there should be an oppressive defect of justice! the venerable writ of *audita querela defendentis*, to ascertain the truth of a fact happening since the judgment; and upon the due finding of which the judgment will be vacated. Let the lawyers bring their books, and answer us, if there is not a case here presented for the application of that ancient and most remedial writ?

From President Jackson, the country has first learned the true theory and practical intent of the constitution, in giving to the Executive a qualified negative on the legislative power of Congress. Far from being an odious, dangerous, or kingly prerogative, this power, as vested in the President, is nothing but a qualified copy

of the famous veto power vested in the tribunes of the people among the Romans, and intended to suspend the passage of a law until the people themselves should have time to consider it. The qualified veto of the President destroys nothing; it only delays the passage of a law, and refers it to the people for their consideration and decision. It is the reference of a law, not to a committee of the House, or of the whole House, but to the committee of the whole Union. It is a recommitment of the bill to the people, for them to examine and consider; and if, upon this examination, they are content to pass it, it will pass at the next session. The delay of a few months is the only effect of a veto, in a case where the people shall ultimately approve a law; where they do not approve it, the interposition of the veto is the barrier which saves them the adoption of a law, the repeal of which might afterwards be almost impossible. The qualified negative is, therefore, a beneficent power, intended, as General Hamilton expressly declares in the 'Federalist,' to protect, first, the executive department from the encroachments of the legislative department; and, secondly, to preserve the people from hasty, dangerous, or criminal legislation on the part of their representatives. This is the design and intention of the veto power; and the fear expressed by General Hamilton was, that Presidents, so far from exercising it too often, would not exercise it as often as the safety of the people required; that they might lack the moral courage to stake themselves in opposition to a favorite measure of the majority of the two Houses of Congress; and thus deprive the people, in many instances, of their right to pass upon a bill before it becomes a final law. The cases in which President Jackson has exercised the veto power has shown the soundness of these observations. No ordinary President would have staked himself against the Bank of the United States, and the two Houses of Congress, in 1832. It required President Jackson to confront that power—to stem that torrent—to stay the progress of that charter, and to refer it to the people for their decision. His moral courage was equal to the crisis. He arrested the charter until it could go to the people, and they have arrested it for ever. Had he not done so, the charter would have become law, and its repeal almost impossible. The people of the whole Union would now have been in the condition of the people of Pennsylvania, bestrode by the monster, in daily conflict with him, and maintaining a doubtful contest for supremacy between the government of a State and the directory of a moneyed corporation.

To detail specific acts which adorn the administration of President Jackson, and illustrate the intuitive sagacity of his intellect, the firmness of his mind, his disregard of personal popularity, and his entire devotion to the public good, would be inconsistent with this rapid sketch, intended merely to present general views, and not to detail single actions, howsoever worthy they may be of a splendid page in the volume of history. But how can we pass over the great measure of the removal of the public moneys from the Bank of the United States, in the autumn of 1833? that wise, heroic, and masterly measure of prevention, which has rescued an empire from the fangs of a merciless, revengeful, greedy, insatiate, implacable, moneyed power! It is a remark for which I am indebted to the philosophic observation of my most esteemed colleague and friend (pointing to Dr. Linn), that, while it requires far greater talent to foresee an evil before it happens, and to arrest it by precautionary measures, than it requires to apply an adequate remedy to the same evil after it has happened, yet the applause bestowed by the world is always greatest in the latter case. Of this, the removal of the public moneys from the Bank of the United States is an eminent instance. The veto of 1832, which arrested the charter which Congress had granted, immediately received the applause and approbation of a majority of the Union: the removal of the deposits, which prevented the bank from forcing a recharter, was disapproved by a large majority of the country, and even of his own friends; yet the veto would have been unavailing, and the bank would inevitably have been rechartered, if the deposits had not been removed. The immense sums of public money since accumulated would have enabled the bank, if she had retained the possession of it, to have coerced a recharter. Nothing but the removal could have prevented her from extorting a recharter from the sufferings and terrors of the people. If it had not been for that measure, the previous veto would have been unavailing; the bank would have been

again installed in power; and this entire federal government would have been held as an appendage to that bank, and administered according to her directions, and by her nominees. That great measure of prevention, the removal of the deposits, though feebly and faintly supported by friends at first, has expelled the bank from the field, and driven her into abeyance under a State charter. She is not dead, but, holding her capital and stockholders together under a State charter, she has taken a position to watch events, and to profit by them. The royal tiger has gone into the jungle; and, crouched on his belly, he awaits the favorable moment for emerging from his covert, and springing on the body of the unsuspicious traveller!

The Treasury order for excluding paper money from the land offices is another wise measure, originating in enlightened forecast, and preventing great mischiefs. The President foresaw the evils of suffering a thousand streams of paper money, issuing from a thousand different banks, to discharge themselves on the national domain. He foresaw that if these currents were allowed to run their course, that the public lands would be swept away, the Treasury would be filled with irredeemable paper, a vast number of banks must be broken by their folly, and the cry set up that nothing but a national bank could regulate the currency. He stopped the course of these streams of paper; and, in so doing, has saved the country from a great calamity, and excited anew the machinations of those whose schemes of gain and mischief have been disappointed; and who had counted on a new edition of panic and pressure, and again saluting Congress with the old story of confidence destroyed, currency ruined, prosperity annihilated, and distress produced, by the tyranny of one man. They began their lugubrious song; but ridicule and contempt have proved too strong for money and insolence; and the panic letter of the ex-president of the denationalized bank, after limping about for a few days, has shrunk from the lash of public scorn, and disappeared from the forum of public debate.

The difficulty with France: what an instance it presents of the superior sagacity of President Jackson over all the commonplace politicians who beset and impede his administration at home! That difficulty, inflamed and aggravated by domestic faction, wore, at one time, a portentous aspect; the skill, firmness, elevation of purpose, and manly frankness of the President, avoided the danger, accomplished the object, commanded the admiration of Europe, and retained the friendship of France. He conducted the delicate affair to a successful and mutually honorable issue. All is amicably and happily terminated, leaving not a wound, nor even a scar, behind—leaving the Frenchman and American on the ground on which they have stood for fifty years, and should for ever stand; the ground of friendship, respect, good will, and mutual wishes for the honor, happiness, and prosperity, of each other.

But why this specification? So beneficent and so glorious has been the administration of this President, that where to begin, and where to end, in the enumeration of great measures, would be the embarrassment of him who has his eulogy to make. He came into office the first of generals; he goes out the first of statesmen. His civil competitors have shared the fate of his military opponents; and Washington city has been to the American politicians who have assailed him, what New Orleans was to the British generals who attacked his lines. Repulsed! driven back! discomfited! crushed! has been the fate of all assailants, foreign and domestic, civil and military. At home and abroad, the impress of his genius and of his character is felt. He has impressed upon the age in which he lives the stamp of his arms, of his diplomacy, and of his domestic policy. In a word, so transcendent have been the merits of his administration, that they have operated a miracle upon the minds of his most inveterate opponents. He has expunged their objections to military chieftains! He has shown them that they were mistaken; that military men were not the dangerous rulers they had imagined, but safe and prosperous conductors of the vessel of state. He has changed their fear into love. With visible signs they admit their error, and, instead of deprecating, they now invoke the reign of chieftains. They labored hard to procure a military successor to the present incumbent; and if their love goes on increasing at the same rate, the republic may be put to the expense of periodical wars, to breed a perpetual succession of these chieftains to rule over them and their posterity for ever.

To drop this irony, which the inconsistency

of mad opponents has provoked, and to return to the plain delineations of historical painting, the mind instinctively dwells on the vast and unprecedented popularity of this President. Great is the influence, great the power, greater than any man ever before possessed in our America, which he has acquired over the public mind. And how has he acquired it? Not by the arts of intrigue, or the juggling tricks of diplomacy; not by undermining rivals, or sacrificing public interests for the gratification of classes or individuals. But he has acquired it, first, by the exercise of an intuitive sagacity which, leaving all book learning at an immeasurable distance behind, has always enabled him to adopt the right remedy, at the right time, and to conquer soonest when the men of forms and office thought him most near to ruin and despair. Next, by a moral courage which knew no fear when the public good beckoned him to go on. Last, and chiefest, he has acquired it by an open honesty of purpose, which knew no concealments; by a straightforwardness of action, which disdained the forms of office and the arts of intrigue; by a disinterestedness of motive, which knew no selfish or sordid calculation; a devotedness of patriotism, which staked every thing personal on the issue of every measure which the public welfare required him to adopt. By these qualities, and these means, he has acquired his prodigious popularity, and his transcendent influence over the public mind; and if there are any who envy that influence and popularity, let them envy, also, and emulate, if they can, the qualities and means by which they were acquired.

Great has been the opposition to President Jackson's administration; greater, perhaps, than ever has been exhibited against any government, short of actual insurrection and forcible resistance. Revolution has been proclaimed! and every thing has been done that could be expected to produce revolution. The country has been alarmed, agitated, convulsed. From the Senate chamber to the village bar-room, from one end of the continent to the other, denunciation, agitation, excitement, has been the order of the day. For eight years the President of this republic has stood upon a volcano, vomiting fire and flames upon him, and threatening the country itself with ruin and desolation, if the people did not expel the usurper, despot, and tyrant, as he was called, from the high place to which the suffrages of millions of freemen had elevated him.

Great is the confidence which he has always reposed in the discernment and equity of the American people. I have been accustomed to see him for many years, and under many discouraging trials; but never saw him doubt, for an instant, the ultimate support of the people. It was my privilege to see him often, and during the most gloomy period of the panic conspiracy, when the whole earth seemed to be in commotion against him, and when many friends were faltering, and stout hearts were quailing, before the raging storm which bank machination, and senatorial denunciation, had conjured up to overwhelm him. I saw him in the darkest moments of this gloomy period; and never did I see his confidence in the ultimate support of his fellow-citizens forsake him for an instant. He always said the people would stand by those who stand by them; and nobly have they justified that confidence! That verdict, the voice of millions, which now demands the expurgation of that sentence, which the Senate and the bank then pronounced upon him, is the magnificent response of the people's hearts to the implicit confidence which he then reposed in them. But it was not in the people only that he had confidence; there was another, and a far higher Power, to which he constantly looked to save the country, and its defenders, from every danger; and signal events prove that he did not look to that high Power in vain.

Sir, I think it right, in approaching the termination of this great question, to present this faint and rapid sketch of the brilliant, beneficent, and glorious administration of President Jackson. It is not for me to attempt to do it justice; it is not for ordinary men to attempt its history. His military life, resplendent with dazzling events, will demand the pen of a nervous writer; his civil administration, replete with scenes which have called into action so many and such various passions of the human heart, and which has given to native sagacity so many victories over practised politicians, will require the profound, luminous, and philosophical conceptions of a Livy, a Plutarch, or a Sallust. This history is not to be written in our day. The cotemporaries of such events are not the hands to describe them. Time must first do

its office—must silence the passions, remove the actors, develope consequences, and canonize all that is sacred to honor, patriotism, and glory. In after ages the historic genius of our America shall produce the writers which the subject demands—men far removed from the contests of this day, who will know how to estimate this great epoch, and how to acquire an immortality for their own names by painting, with a master's hand, the immortal events of the patriot President's life.

And now, sir, I finish the task which, three years ago, I imposed on myself. Solitary and alone, and amidst the jeers and taunts of my opponents, I put this ball in motion. The people have taken it up, and rolled it forward, and I am no longer any thing but a unit in the vast mass which now propels it. In the name of that mass I speak. I demand the execution of the edict of the people; I demand the expurgation of that sentence which the voice of a few senators, and the power of their confederate, the Bank of the United States, has caused to be placed on the journal of the Senate; and which the voice of millions of freemen has ordered to be expunged from it.

CHAPTER CLXI.

EXPUNGING RESOLUTION: MR. CLAY, MR. CALHOUN, MR. WEBSTER: LAST SCENE: RESOLUTION PASSED, AND EXECUTED.

SATURDAY, the 14th of January, the democratic senators agreed to have a meeting, and to take their final measures for passing the expunging resolution. They knew they had the numbers; but they also knew that they had adversaries to grapple with to whom might be applied the proud motto of Louis the Fourteenth: "Not an unequal match for numbers." They also knew that members of the party were in the process of separating from it, and would require conciliating. They met in the night at the then famous restaurant of Boulanger, giving to the assemblage the air of a convivial entertainment. It continued till midnight, and required all the moderation, tact and skill of the prime movers to obtain and maintain the union upon details, on the success of which the fate of the measure depended. The men of conciliation were to be the efficient men of that night; and all the winning resources of Wright, Allen of Ohio and Linn of Missouri, were put into requisition. There were serious differences upon the mode of expurgation, while agreed upon the thing; and finally obliteration, the favorite of the mover, was given up; and the mode of expurgation adopted which had been proposed in the resolutions of the General Assembly of Virginia; namely, to inclose the obnoxious sentence in a square of black lines—an oblong square: a compromise of opinions to which the mover agreed upon condition of being allowed to compose the epitaph—"Expunged by the order of the Senate." The agreement which was to lead to victory was then adopted, each one severally pledging himself to it, that there should be no adjournment of the Senate after the resolution was called until it was passed; and that it should be called immediately after the morning business on the Monday ensuing. Expecting a protracted session, extending through the day and night, and knowing the difficulty of keeping men steady to their work and in good humor, when tired and hungry, the mover of the proceeding took care to provide, as far as possible, against such a state of things; and gave orders that night to have an ample supply of cold hams, turkeys, rounds of beef, pickles, wines and cups of hot coffee, ready in a certain committee room near the Senate chamber by four o'clock on the afternoon of Monday.

The motion to take up the subject was made at the appointed time, and immediately a debate of long speeches, chiefly on the other side, opened itself upon the question. It was evident that comsumption of time, delay and adjournment, was their plan. The three great leaders did not join in the opening; but their place was well supplied by many of their friends, able speakers—some effective, some eloquent: Preston of South Carolina; Richard H. Bayard and John M. Clayton of Delaware; Crittenden of Kentucky; Southard of New Jersey; White of Tennessee; Ewing of Ohio. They were only the half in number, but strong in zeal and ability, that commenced the contest three years before, reinforced by Mr. White of Tennessee. As the darkness of approaching night came on, and the great chandelier was lit up, splendidly illuminating the chamber, then crowded with the members of the

House, and the lobbies and galleries filled to their utmost capacity by visitors and spectators, the scene became grand and impressive. A few spoke on the side of the resolution—chiefly Rives, Buchanan, Niles — and with an air of ease and satisfaction that bespoke a quiet determination, and a consciousness of victory. The committee room had been resorted to in parties of four and six at a time, always leaving enough on watch: and not resorted to by one side alone. The opposition were invited to a full participation—an invitation of which those who were able to maintain their good temper readily availed themselves; but the greater part were not in a humor to eat any thing—especially at such a feast. The night was wearing away: the expungers were in full force—masters of the chamber—happy—and visibly determined to remain. It became evident to the great opposition leaders that the inevitable hour had come: that the damnable deed was to be done that night: and that the dignity of silence was no longer to them a tenable position. The battle was going against them, and they must go into it, without being able to re-establish it. In the beginning, they had not considered the expunging movement a serious proceeding: as it advanced they still expected it to miscarry on some point: now the reality of the thing stood before them, confronting their presence, and refusing to "down" at any command. They broke silence, and gave vent to language which bespoke the agony of their feelings, and betrayed the revulsion of stomach with which they approached the odious subject. Mr. Calhoun said:

"No one, not blinded by party zeal, can possibly be insensible that the measure proposed is a violation of the constitution. The constitution requires the Senate to keep a journal; this resolution goes to expunge the journal. If you may expunge a part, you may expunge the whole; and if it is expunged, how is it kept? The constitution says the journal shall be kept; this resolution says it shall be destroyed. It does the very thing which the constitution declares shall not be done. That is the argument, the whole argument. There is none other. Talk of precedents? and precedents drawn from a foreign country? They don't apply. No, sir. This is to be done, not in consequence of argument, but in spite of argument. I understand the case. I know perfectly well the gentlemen have no liberty to vote otherwise. They are coerced by an exterior power. They try, indeed, to comfort their conscience by saying that it is the will of the people, and the voice of the people. It is no such thing. We all know how these legislative returns have been obtained. It is by dictation from the White House. The President himself, with that vast mass of patronage which he wields, and the thousand expectations he is able to hold up, has obtained these votes of the State Legislatures; and this, forsooth, is said to be the voice of the people. The voice of the people! Sir, can we forget the scene which was exhibited in this chamber when that expunging resolution was first introduced here? Have we forgotten the universal giving way of conscience, so that the senator from Missouri was left alone? I see before me senators who could not swallow that resolution; and has its nature changed since then? Is it any more constitutional now than it was then? Not at all. But executive power has interposed. Talk to me of the voice of the people! No, sir. It is the combination of patronage and power to coerce this body into a gross and palpable violation of the constitution. Some individuals, I perceive, think to escape through the particular form in which this act is to be perpetrated. They tell us that the resolution on your records is not to be expunged, but is only to be endorsed 'Expunged.' Really, sir, I do not know how to argue against such contemptible sophistry. The occasion is too solemn for an argument of this sort. You are going to violate the constitution, and you get rid of the infamy by a falsehood. You yourselves say that the resolution is expunged by your order. Yet you say it is not expunged. You put your act in express words. You record it, and then turn round and deny it.

"But why do I waste my breath? I know it is all utterly vain. The day is gone; night approaches, and night is suitable to the dark deed we meditate. There is a sort of destiny in this thing. The act must be performed; and it is an act which will tell on the political history of this country for ever. Other preceding violations of the constitution (and they have been many and great) filled my bosom with indignation, but this fills it only with grief. Others were done in the heat of party. Power was, as it were, compelled to support itself by seizing upon new instruments of influence and patronage; and there were ambitious and able men to direct the process. Such was the removal of the deposits, which the President seized upon by a new and unprecedented act of arbitrary power; an act which gave him ample means of rewarding friends and punishing enemies. Something may, perhaps, be pardoned to him in this matter, on the old apology of tyrants—the plea of necessity. But here there can be no such apology. Here no necessity can so much as be pretended. This act originates in pure, unmixed, personal idolatry. It is the melancholy evidence of a broken spirit, ready to bow at the feet of power. The former act was such a one as might have been perpetrated in the days of Pompey or Cæsar; but an act like

this could never have been consummated by a Roman Senate until the times of Caligula and Nero."

Mr. Calhoun was right in his taunt about the universal giving way when the resolution was first introduced—the solitude in which the mover was then left—and in which solitude he would have been left to the end, had it not been for his courage in reinstating the word expunge, and appealing to the people.

Mr. Clay commenced with showing that he had never believed in the reality of the proceeding until now; that he had considered the resolution as a thing to be taken up for a speech, and laid down when the speech was delivered; and that the last laying down, at the previous session, was the end of the matter. He said:

"Considering that he was the mover of the resolution of March, 1834, and the consequent relation in which he stood to the majority of the Senate by whose vote it was adopted, he had felt it to be his duty to say something on this expunging resolution; and he had always intended to do so when he should be persuaded that there existed a settled purpose of pressing it to a final decision. But it had been so taken up and put down at the last session—taken up one day, when a speech was prepared for delivery, and put down when it was pronounced—that he had really doubted whether there existed any serious intention of ever putting it to the vote. At the very close of the last session, it will be recollected that the resolution came up, and in several quarters of the Senate a disposition was manifested to come to a definitive decision. On that occasion he had offered to waive his right to address the Senate, and silently to vote upon the resolution; but it was again laid upon the table; and laid there for ever, as the country supposed, and as he believed. It is, however, now revived; and, sundry changes having taken place in the members of this body, it would seem that the present design is to bring the resolution to an absolute conclusion."

Then, after an argument against the expurgation, which, of necessity, was obliged to be a recapitulation of the argument in favor of the original condemnation of the President, he went on to give vent to his feelings in expressions not less bitter and denunciatory of the President and his friends than those used by Mr. Calhoun, saying:

"But if the matter of expunction be contrary to the truth of the case, reproachful for its base subserviency, derogatory from the just and necessary powers of the Senate, and repugnant to the constitution of the United States, the manner in which it is proposed to accomplish this dark deed is also highly exceptionable. The expunging resolution, which is to blot out or enshroud the four or five lines in which the resolution of 1834 stands recorded, or rather the recitals by which it is preceded, are spun out into a thread of enormous length. It runs, whereas, and whereas, and whereas, and whereas, and whereas, &c., into a formidable array of nine several whereases. One who should have the courage to begin to read them, unaware of what was to be their termination, would think that at the end of such a tremendous display he must find the very devil."

And then coming to the conclusion, he concentrated his wrath and grief in an apostrophizing peroration, which lacked nothing but verisimilitude to have been grand and affecting. Thus:

"But why should I detain the Senate, or needlessly waste my breath in fruitless exertions. Ths decree has gone forth. It is one of urgency, too. The deed is to be done—that foul deed which, like the blood-stained hands of the guilty Macbeth, all ocean's waters will never wash out. Proceed, then, with the noble work which lies before you, and, like other skilful executioners, do it quickly. And when you have perpetrated it, go home to the people, and tell them what glorious honors you have achieved for our common country. Tell them that you have extinguished one of the brightest and purest lights that ever burnt at the altar of civil liberty. Tell them that you have silenced one of the noblest batteries that ever thundered in defence of the constitution, and bravely spiked the cannon. Tell them that, henceforward, no matter what daring or outrageous act any President may perform, you have for ever hermetically sealed the mouth of the Senate. Tell them that he may fearlessly assume what powers he pleases, snatch from its lawful custody the public purse, command a military detachment to enter the halls of the capitol, overawe Congress, trample down the constitution, and raze every bulwark of freedom; but that the Senate must stand mute, in silent submission, and not dare to raise its opposing voice. That it must wait until a House of Representatives, humbled and subdued like itself, and a majority of it composed of the partisans of the President, shall prefer articles of impeachment. Tell them, finally, that you have restored the glorious doctrines of passive obedience and non-resistance. And, if the people do not pour out their indignation and imprecations, I have yet to learn the character of American freemen."

Mr. Webster spoke last, and after a pause in the debate which seemed to indicate its conclu-

sion; and only rose, and that slowly, as the question was about to be put. Having no personal griefs in relation to General Jackson like Mr. Calhoun and Mr. Clay, and with a temperament less ardent, he delivered himself with comparative moderation, confining himself to a brief protest against the act; and concluding, in measured and considered language, with expressing his grief and mortification at what he was to behold; thus:

"We have seen, with deep and sincere pain, the legislatures of respectable States instructing the senators of those States to vote for and support this violation of the journal of the Senate; and this pain is infinitely increased by our full belief, and entire conviction, that most, if not all these proceedings of States had their origin in promptings from Washington; that they have been urgently requested and insisted on, as being necessary to the accomplishment of the intended purpose; and that it is nothing else but the influence and power of the executive branch of this government which has brought the legislatures of so many of the free States of this Union to quit the sphere of their ordinary duties, for the purpose of co-operating to accomplish a measure, in our judgment, so unconstitutional, so derogatory to the character of the Senate, and marked with so broad an impression of compliance with power. But this resolution is to pass. We expect it. That cause, which has been powerful enough to influence so many State legislatures, will show itself powerful enough, especially with such aids, to secure the passage of the resolution here. We make up our minds to behold the spectacle which is to ensue. We collect ourselves to look on, in silence, while a scene is exhibited which, if we did not regard it as a ruthless violation of a sacred instrument, would appear to us to be little elevated above the character of a contemptible farce. This scene we shall behold; and hundreds of American citizens, as many as may crowd into these lobbies and galleries, will behold it also: with what feelings I do not undertake to say."

Midnight was now approaching. The dense masses which filled every inch of room in the lobbies and the galleries, remained immovable. No one went out: no one could get in. The floor of the Senate was crammed with privileged persons, and it seemed that all Congress was there. Expectation, and determination to see the conclusion, was depicted upon every countenance. It was evident there was to be no adjournment until the vote should be taken—until the deed was done; and this aspect of invincible determination, had its effect upon the ranks of the opposition. They began to falter under a useless persistence, for they alone now did the speaking; and while Mr. Webster was yet reciting his protest, two senators from the opposite side, who had been best able to maintain their equanimity, came round to the author of this View, and said "This question has degenerated into a trial of nerves and muscles. It has become a question of physical endurance; and we see no use in wearing ourselves out to keep off for a few hours longer what has to come before we separate. We see that you are able and determined to carry your measure: so call the vote as soon as you please. We shall say no more." Mr. Webster concluded. No one rose. There was a pause, a dead silence, and an intense feeling. Presently the silence was invaded by the single word "question"—the parliamentary call for a vote—rising from the seats of different senators. One blank in the resolve remained to be filled—the date of its adoption It was done. The acting president of the Senate, Mr. King, of Alabama, then directed the roll to be called. The yeas and nays had been previously ordered, and proceeded to be called by the secretary of the Senate, Mr. Asbury Dickens. Forty-three senators were present, answering: five absent. The yeas were:

"Messrs. Benton, Brown, Buchanan, Dana, Ewing of Illinois, Fulton, Grundy, Hubbard, King of Alabama, Linn, Morris, Nicholas, Niles, Page, Rives, Robinson, Ruggles, Sevier, Strange, Tallmadge, Tipton, Walker, Wall, Wright.

"Nays.—Messrs. Bayard, Black, Calhoun, Clay, Crittenden, Davis, Ewing of Ohio, Hendricks, Kent, Knight, Moore, Prentiss, Preston, Robbins, Southard, Swift, Tomlinson, Webster, White."

The passage of the resolution was announced from the chair. Mr. Benton rose, and said that nothing now remained but to execute the order of the Senate; which he moved be done forthwith. It was ordered accordingly. The Secretary thereupon produced the original manuscript journal of the Senate, and opening at the page which contained the condemnatory sentence of March 28th, 1834, proceeded in open Senate to draw a square of broad black lines around the sentence, and to write across its face in strong letters these words: "Expunged by order of the Senate, this 16th day of March, 1837." Up to this moment the crowd

in the great circular gallery, looking down upon the Senate, though sullen and menacing in their looks, had made no manifestation of feeling; and it was doubtless not the intention of Mr. Webster to excite that manifestation when he referred to their numbers, and expressed his ignorance of the feeling with which they would see the deed done which he so much deprecated. Doubtless no one intended to excite that crowd, mainly composed, as of usual since the bank question began, of friends of that institution; but its appearance became such that Senator Linn, colleague of Senator Benton, Mr. George W. Jones, since senator from Iowa, and others sent out and brought in arms; other friends gathered about him; among them Mrs. Benton, who, remembering what had happened to General Jackson, and knowing that, after him, her husband was most obnoxious to the bank party, had her anxiety sufficiently excited to wish to be near him in this concluding scene of a seven years' contest with that great moneyed power. Things were in this state when the Secretary of the Senate began to perform the expunging process on the manuscript journal. Instantly a storm of hisses, groans, and vociferations arose from the left wing of the circular gallery, over the head of Senator Benton. The presiding officer promptly gave the order, which the rules prescribe in such cases, to clear the gallery. Mr. Benton opposed the order, saying:

"I hope the galleries will not be cleared, as many innocent persons will be excluded, who have been guilty of no violation of order. Let the ruffians who have made the disturbance alone be punished: let them be apprehended. I hope the sergeant-at-arms will be directed to enter the gallery, and seize the ruffians, ascertaining who they are in the best way he can. Let him apprehend them and bring them to the bar of the Senate. Let him seize the bank ruffians. I hope that they will not now be suffered to insult the Senate, as they did when it was under the power of the Bank of the United States, when ruffians, with arms upon them, insulted us with impunity. Let them be taken and brought to the bar of the Senate. Here is one just above me, that may easily be identified—the bank ruffians!"

Mr. Benton knew that he was the object of this outrage, and that the way to treat these subaltern wretches was to defy and seize them, and have them dragged as criminals to the bar of the Senate. They were congregated immediately over his head, and had evidently collected into that place. His motion was agreed to. The order to clear the galleries was revoked; the order to seize the disturbers was given, and immediately executed by the energetic sergeant-at-arms, Mr. John Shackford, and his assistants. The ringleader was seized, and brought to the bar. This sudden example intimidated the rest; and the expunging process was performed in quiet. The whole scene was impressive; but no part of it so much so as to see the great leaders who, for seven long years had warred upon General Jackson, and a thousand times pronounced him ruined, each rising in his place, with pain and reluctance, to confess themselves vanquished—to admit his power, and their weakness—and to exhale their griefs in unavailing reproaches, and impotent deprecations. It was a tribute to his invincibility which cast into the shade all the eulogiums of his friends. The gratification of General Jackson was extreme. He gave a grand dinner to the expungers (as they were called) and their wives; and being too weak to sit at the table, he only met the company, placed the "head-expunger" in his chair, and withdrew to his sick chamber. That expurgation! it was the "crowning mercy" of his civil, as New Orleans had been of his military, life!

CHAPTER CLXII.

THE SUPREME COURT—JUDGES AND OFFICERS.

THE death of Chief Justice Marshall had vacated that high office, and Roger B. Taney, Esq., was nominated to fill it. He still encountered opposition in the Senate; but only enough to show how much that opposition had declined since the time when he was rejected as Secretary of the Treasury. The vote against his confirmation was reduced to fifteen; namely: Messrs. Black of Mississippi; Calhoun, Clay, Crittenden; Ewing of Ohio; Leigh of Virginia; Mangum; Naudain of Delaware; Porter of Louisiana; Preston; Robbins of Rhode Island; Southard, Tomlinson, Webster, White of Tennessee.

Among the Justices of the Supreme Court, these changes took place from the commence-

ment of this View to the end of General Jackson's administration: Smith Thompson, Esq., of New York, in 1823, in place of Brockholst Livingston, Esq., deceased; Robert Trimble, Esq., of Kentucky, in 1826, in place of Thomas Todd, deceased; John McLean, Esq., of Ohio, in 1829, in place of Robert Trimble, deceased; Henry Baldwin, Esq., of Pennsylvania, in 1830, in place of Bushrod Washington, deceased; James M. Wayne, Esq., of Georgia, in 1835, in place of William Johnson, deceased; Philip P. Barbour, Esq., of Virginia, in 1836, in place of Gabriel Duval, resigned.

In the same time, William Griffith, Esq. of New Jersey, was appointed Clerk, in 1826, in place of Elias B. Caldwell, deceased; and William Thomas Carroll, Esq., of the District of Columbia, was appointed, in 1827, in place of William Griffith, deceased. Of the reporters of the decisions of the Supreme Court, Richard Peters, jr., Esq., of Pennsylvania, was appointed, in 1828, in place of Henry Wheaton; and Benjamin C. Howard, Esq., of Maryland, was appointed, in 1843, to succeed Mr. Peters, deceased.

The Marshals of the District, during the same period, were: Henry Ashton, of the District of Columbia, appointed, in 1831, in place of Tench Ringgold; Alexander Hunter, of the same District, in place of Henry Ashton; Robert Wallace, in 1848 in place of Alexander Hunter, deceased; Richard Wallach, in 1849, in place of Robert Wallace; and Jonah D Hoover, in 1853, in place of Richard Wallach.

CHAPTER CLXIII.

FAREWELL ADDRESS OF PRESIDENT JACKSON—EXTRACT.

Following the example of Washington, General Jackson issued a Farewell Address to the people of the United States, at his retiring from the presidency; and, like that of Washington, it was principally devoted to the danger of disunion, and to the preservation of harmony and good feeling between the different sections of the country. General Washington only had to contemplate the danger of disunion, as a possibility, and as an event of future contingency; General Jackson had to confront it as a present, actual, subsisting danger; and said:

"We behold systematic efforts publicly made to sow the seeds of discord between different parts of the United States, and to place party divisions directly upon geographical distinctions; to excite the South against the North, and the North against the South, and to force into the controversy the most delicate and exciting topics—topics upon which it is impossible that a large portion of the Union can ever speak without strong emotion. Appeals, too, are constantly made to sectional interests, in order to influence the election of the Chief Magistrate, as if it were desired that he should favor a particular quarter of the country, instead of fulfilling the duties of his station with impartial justice to all; and the possible dissolution of the Union has at length become an ordinary and familiar subject of discussion. Has the warning voice of Washington been forgotten? or have designs already been formed to sever the Union? Let it not be supposed that I impute to all of those who have taken an active part in these unwise and unprofitable discussions, a want of patriotism or of public virtue. The honorable feelings of State pride, and local attachments, find a place in the bosoms of the most enlightened and pure. But while such men are conscious of their own integrity and honesty of purpose, they ought never to forget that the citizens of other States are their political brethren; and that, however mistaken they may be in their views, the great body of them are equally honest and upright with themselves. Mutual suspicions and reproaches may in time create mutual hostility; and artful and designing men will always be found, who are ready to foment these fatal divisions, and to inflame the natural jealousies of different sections of the country! The history of the world is full of such examples, and especially the history of republics.

"What have you to gain by division and dissension? Delude not yourselves with the belief, that a breach, once made, may be afterwards repaired. If the Union is once severed, the line of separation will grow wider and wider; and the controversies which are now debated and settled in the halls of legislation, will then be tried in fields of battle, and determined by the sword. Neither should you deceive yourselves with the hope, that the first line of separation would be the permanent one, and that nothing but harmony and concord would be found in the new associations formed upon the dissolution of this Union. Local interests would still be found there, and unchastened ambition. And if the recollection of common dangers, in which the people of these United States stood side by side against the common foe—the memory of victories won by their united valor; the prosperity and happiness they have enjoyed under the present constitution; the proud name they bear as citizens of this great republic—if all

these recollections and proofs of common interest are not strong enough to bind us together as one people, what tie will hold united the new divisions of empire, when these bonds have been broken and this Union dissevered? The first line of separation would not last for a single generation; new fragments would be torn off; new leaders would spring up; and this great and glorious republic would soon be broken into a multitude of petty States, without commerce, without credit; jealous of one another; armed for mutual aggressions; loaded with taxes to pay armies and leaders; seeking aid against each other from foreign powers; insulted and trampled upon by the nations of Europe; until, harassed with conflicts, and humbled and debased in spirit, they would be ready to submit to the absolute dominion of any military adventurer, and to surrender their liberty for the sake of repose. It is impossible to look on the consequences that would inevitably follow the destruction of this government, and not feel indignant when we hear cold calculations about the value of the Union, and have so constantly before us a line of conduct so well calculated to weaken its ties."

Nothing but the deepest conviction of an actual danger could have induced General Jackson, in this solemn manner, and with such pointed reference and obvious application, to have given this warning to his countrymen, at that last moment, when he was quitting office, and returning to his home to die. He was, indeed, firmly impressed with a sense of that danger—as much so as Mr. Madison was—and with the same "pain" of feeling, and presentiment of great calamities to our country. What has since taken place has shown that their apprehensions were not groundless—that the danger was deep-seated, and wide-spread; and the end not yet.

CHAPTER CLXIV.

CONCLUSION OF GENERAL JACKSON'S ADMINISTRATION.

The enemies of popular representative government may suppose that they find something in this work to justify the reproach of faction and violence which they lavish upon such forms of government; but it will be by committing the mistake of overlooking the broad features of a picture to find a blemish in the detail—disregarding a statesman's life to find a misstep; and shutting their eyes upon the action of the people. The mistakes and errors of public men are fairly shown in this work; and that might seem to justify the reproach: but the action of the people is immediately seen to come in, to correct every error, and to show the capacity of the people for wise and virtuous government. It would be tedious to enumerate the instances of this conservative supervision, so continually exemplified in the course of this history; but some eminent cases stand out too prominently to be overlooked. The recharter of the Bank of the United States was a favorite measure with politicians; the people rejected it; and the wisdom of their conduct is now universally admitted. The distribution of land and money was a favorite measure with politicians; the people condemned it and no one of those engaged in these distributions ever attained the presidency. President Jackson, in his last annual message to Congress, and in direct reference to this conservative action of the people, declared "that all that had occurred during his administration was calculated to inspire him with increased confidence in the stability of our institutions." I make the same declaration, founded upon the same view of the conduct of the people—upon the observation of their conduct in trying circumstances; and their uniform discernment to see, and virtue and patriotism to do, whatever the honor and interest of the country required. The work is full of consolation and encouragement to popular government; and in that point of view it may be safely referred to by the friends of that form of government. I have written veraciously and of acts, not of motives. I have shown a persevering attack upon President Jackson on the part of three eminent public men during his whole administration; but have made no attribution of motives. But another historian has not been so forbearing—one to whose testimony there can be no objection, either on account of bias, judgment, or information; and who, writing under the responsibility of history, has indicated a motive in two of the assailants. Mr. Adams, in his history of the administration of Mr. Monroe, gives an account of the attempt in the two Houses of Congress in 1818, to censure General Jackson for his conduct in the Seminole war, and says: "Efforts were made in Con-

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gress to procure a vote censuring the conduct of General Jackson, whose fast increasing popularity had, in all probability, already excited the envy of politicians. Mr. Clay and Mr. Calhoun in particular favored this movement; but the President himself, and Mr. Adams, the Secretary of State, who had charge of the Spanish negotiation, warmly espoused the cause of the American commander." This fear of a rising popularity was not without reason. There were proposals to bring General Jackson forward for the presidency in 1816, and in 1820; to which he would not listen, on account of his friendship to Mr. Monroe. A refusal to enter the canvass at those periods, and for that reason, naturally threw him into it in 1824, when he would come into competition with those two gentlemen. Their opposition to him, therefore, dates back to the first term of Mr. Monroe's administration; that of Mr. Clay openly and responsibly; that of Mr. Calhoun secretly and deceptiously, as shown in the "Exposition." They were both of the same political party school with General Jackson; and it was probably his rising to the head of that party which threw them both out of it. Mr. Webster's opposition arose from his political relations, as belonging to the opposite school; and was always more moderate, and better guarded by decorum. He even appeared, sometimes, as the justifier and supporter of President Jackson's measures; as in the well-known instance of South Carolina nullification. Mr. Clay's efforts were limited to the overthrow of President Jackson; Mr. Calhoun's extended to the overthrow of the Union, and to the establishment of a southern confederacy of the slave States. The subsequent volume will have to pursue this subject.

This chapter ends the view of the administration of President Jackson, promised to him in his lifetime, constituting an entire work in itself, and covering one of the most eventful periods of American history—as trying to the virtue and intelligence of the American people as was the war of the revolution to their courage and patriotism.

CHAPTER CLXV.

RETIRING AND DEATH OF GENERAL JACKSON—ADMINISTRATION OF MARTIN VAN BUREN.

THE second and last term of General Jackson's presidency expired on the 3d of March, 1837. The next day, at twelve, he appeared with his successor, Mr. Van Buren, on the elevated and spacious eastern portico of the capitol, as one of the citizens who came to witness the inauguration of the new President, and no way distinguished from them, except by his place on the left hand of the President elect. The day was beautiful—clear sky, balmy vernal sun, tranquil atmosphere;—and the assemblage immense. On foot, in the large area in front of the steps, orderly without troops, and closely wedged together, their faces turned to the portico—presenting to the beholders from all the eastern windows the appearance of a field paved with human faces. This vast crowd remained riveted to their places, and profoundly silent, until the ceremony of inauguration was over. It was the stillness and silence of reverence and affection; and there was no room for mistake as to whom this mute and impressive homage was rendered. For once, the rising was eclipsed by the setting sun. Though disrobed of power, and retiring to the shades of private life, it was evident that the great ex-President was the absorbing object of this intense regard. At the moment he began to descend the broad steps of the portico to take his seat in the open carriage which was to bear him away, the deep repressed feeling of the dense mass brook forth, acclamations and cheers bursting from the heart and filling the air—such as power never commanded, nor man in power received. It was the affection, gratitude, and admiration of the living age, saluting for the last time a great man. It was the acclaim of posterity, breaking from the bosoms of contemporaries. It was the anticipation of futurity—unpurchasable homage to the hero-patriot who, all his life, and in all circumstances of his life, in peace and in war, and glorious in each, had been the friend of his country, devoted to her, regardless of self. Uncovered, and bowing, with a look of unaffected humility and thankfulness, he acknowledged in mute signs his deep sensibility to this affecting overflow of popular feeling. I was looking down from a side window, and felt an emotion which had never passed through me before. I had seen the inauguration of many presidents, and their going away, and their days of state, vested with power, and surrounded by the splendors of the first magistracy of a great republic. But they all appeared to be as pageants, empty and soulless, brief to the view, unreal to the touch, and soon to vanish. But here there seemed to be a reality—a real scene—a man and the people—he, laying down power and withdrawing through the portals of everlasting fame;—they, sounding in his ears the everlasting plaudits of unborn generations. Two days after, I saw the patriot ex-President in the car which bore him off to his desired seclusion. I saw him depart with that look of quiet enjoyment which bespoke the inward satisfaction of the soul at exchanging the cares of office for the repose of home. History, poetry, oratory, marble and brass, will hand down the military exploits of Jackson: this work will commemorate the events of his civil administration, not less glorious than his military achievements, great as they were; and this brief notice of his last appearance at the American capital is intended to preserve some faint memory of a scene, the grandeur of which was so impressive to the beholder, and the solace of which must have been so grateful to the heart of the departing patriot.

Eight years afterwards he died at the Hermit-

age, in the full possession of all his faculties, and strong to the last in the ruling passion of his soul—love of country. Public history will do justice to his public life; but a further notice is wanted of him—a notice of the domestic man—of the man at home, with his wife, his friends, his neighbors, his slaves; and this I feel some qualification for giving, from my long and varied acquaintance with him. First, his intimate and early friend—then a rude rupture—afterwards friendship and intimacy for twenty years, and until his death: in all forty years of personal observation, in the double relation of friend and foe, and in all the walks of life, public and private, civil and military.

The first time that I saw General Jackson was at Nashville, Tennessee, in 1799—he on the bench, a judge of the then Superior Court, and I a youth of seventeen, back in the crowd. He was then a remarkable man, and had his ascendant over all who approached him, not the effect of his high judicial station, nor of the senatorial rank which he had held and resigned; nor of military exploits, for he had not then been to war; but the effect of personal qualities; cordial and graceful manners, hospitable temper, elevation of mind, undaunted spirit, generosity, and perfect integrity. In charging the jury in the impending case, he committed a slight solecism in language which grated on my ear, and lodged on my memory, without derogating in the least from the respect which he inspired; and without awakening the slightest suspicion that I was ever to be engaged in smoothing his diction. The first time I spoke with him was some years after, at a (then) frontier town in Tennessee, when he was returning from a Southern visit, which brought him through the towns and camps of some of the Indian tribes. In pulling off his overcoat, I perceived on the white lining of the turning down sleeve, a dark speck, which had life and motion. I brushed it off, and put the heel of my shoe upon it—little thinking that I was ever to brush away from him game of a very different kind. He smiled; and we began a conversation in which he very quickly revealed a leading trait of his character,—that of encouraging young men in their laudable pursuits. Getting my name and parentage, and learning my intended profession, he manifested a regard for me, said he had received hospitality at my father's house in North Carolina, gave me kind invitations to visit him; and expressed a belief that I would do well at the bar—generous words which had the effect of promoting what they undertook to foretell. Soon after, he had further opportunity to show his generous feelings. I was employed in a criminal case of great magnitude, where the oldest and ablest counsel appeared—Haywood, Grundy, Whiteside,—and the trial of which General Jackson attended through concern for the fate of a friend. As junior counsel I had to precede my elders, and did my best; and, it being on the side of his feelings, he found my effort to be better than it was. He complimented me greatly, and from that time our intimacy began.

I soon after became his aid, he being a Major General in the Tennessee militia—made so by a majority of one vote. How much often depends upon one vote!—New Orleans, the Creek campaign, and all their consequences, date from that one vote!—and after that, I was habitually at his house; and, as an inmate, had opportunities to know his domestic life, and at the period when it was least understood and most misrepresented. He had resigned his place on the bench of the Superior Court, as he had previously resigned his place in the Senate of the United States, and lived on a superb estate of some thousand acres, twelve miles from Nashville, then hardly known by its subsequent famous name of the Hermitage—name chosen for its perfect accord with his feelings; for he had then actually withdrawn from the stage of public life, and from a state of feeling well known to belong to great talent when finding no theatre for its congenial employment. He was a careful farmer, overlooking every thing himself, seeing that the fields and fences were in good order, the stock well attended, and the slaves comfortably provided for. His house was the seat of hospitality, the resort of friends and acquaintances, and of all strangers visiting the State—and the more agreeable to all from the perfect conformity of Mrs. Jackson's character to his own. But he needed some excitement beyond that which a farming life can afford, and found it, for some years, in the animating sports of the turf. He loved fine horses—racers of speed and bottom—owned several, and contested the four mile heats with the best that could be bred, or brought to the State, and for large sums. That is the nearest to gaming that I

ever knew him to come. Cards and the cock-pit have been imputed to him, but most erroneously. I never saw him engaged in either. Duels were usual in that time, and he had his share of them, with their unpleasant concomitants; but they passed away with all their animosities, and he has often been seen zealously pressing the advancement of those against whom he had but lately been arrayed in deadly hostility.

His temper was placable as well as irascible, and his reconciliations were cordial and sincere. Of that, my own case was a signal instance. After a deadly feud, I became his confidential adviser; was offered the highest marks of his favor, and received from his dying bed a message of friendship, dictated when life was departing, and when he would have to pause for breath. There was a deep-seated vein of piety in him, unaffectedly showing itself in his reverence for divine worship, respect for the ministers of the gospel, their hospitable reception in his house, and constant encouragement of all the pious tendencies of Mrs. Jackson. And when they both afterwards became members of a church, it was the natural and regular result of their early and cherished feelings. He was gentle in his house, and alive to the tenderest emotions; and of this, I can give an instance, greatly in contrast with his supposed character, and worth more than a long discourse in showing what that character really was. I arrived at his house one wet chilly evening, in February, and came upon him in the twilight, sitting alone before the fire, a lamb and a child between his knees. He started a little, called a servant to remove the two innocents to another room, and explained to me how it was. The child had cried because the lamb was out in the cold, and begged him to bring it in—which he had done to please the child, his adopted son, then not two years old. The ferocious man does not do that! and though Jackson had his passions and his violence, they were for men and enemies—those who stood up against him—and not for women and children, or the weak and helpless: for all whom his feelings were those of protection and support. His hospitality was active as well as cordial, embracing the worthy in every walk of life, and seeking out deserving objects to receive it, no matter how obscure. Of this, I learned a characteristic instance in relation to the son of the famous Daniel Boone. The young man had come to Nashville on his father's business, to be detained some weeks, and had his lodgings at a small tavern, towards the lower part of the town. General Jackson heard of it; sought him out; found him; took him home to remain as long as his business detained him in the country, saying, "Your father's dog should not stay in a tavern, where I have a house." This was heart! and I had it from the young man himself, long after, when he was a State Senator of the General Assembly of Missouri, and, as such, nominated me for the United States Senate, at my first election, in 1820: an act of hereditary friendship, as our fathers had been early friends.

Abhorrence of debt, public and private, dislike of banks, and love of hard money—love of justice and love of country, were ruling passions with Jackson; and of these he gave constant evidence in all the situations of his life. Of private debts he contracted none of his own, and made any sacrifices to get out of those incurred for others. Of this he gave a signal instance, not long before the war of 1812—selling the improved part of his estate, with the best buildings of the country upon it, to pay a debt incurred in a mercantile adventure to assist a young relative; and going into log-houses in the forest to begin a new home and farm. He was living in these rude tenements when he vanquished the British at New Orleans; and, probably, a view of their conqueror's domicile would have astonished the British officers as much as their defeat had done. He was attached to his friends, and to his country, and never believed any report to the discredit of either, until compelled by proof. He would not believe in the first reports of the surrender of General Hull, and became sad and oppressed when forced to believe it. He never gave up a friend in a doubtful case, or from policy, or calculation. He was a firm believer in the goodness of a superintending Providence, and in the eventual right judgment and justice of the people. I have seen him at the most desperate part of his fortunes, and never saw him waver in the belief that all would come right in the end. In the time of Cromwell he would have been a puritan.

The character of his mind was that of judgment, with a rapid and almost intuitive perception, followed by an instant and decisive action.

It was that which made him a General, and a President for the time in which he served. He had vigorous thoughts, but not the faculty of arranging them in a regular composition, either written or spoken; and in formal papers he usually gave his draft to an aid, a friend, or a secretary, to be written over—often to the loss of vigor. But the thoughts were his own vigorously expressed; and without effort, writing with a rapid pen, and never blotting or altering; but, as Carlyle says of Cromwell, hitting the nail upon the head as he went. I have a great deal of his writing now, some on public affairs and covering several sheets of paper; and no erasures or interlineations anywhere. His conversation was like his writing, a vigorous flowing current, apparently without the trouble of thinking, and always impressive. His conclusions were rapid, and immovable, when he was under strong convictions; though often yielding, on minor points, to his friends. And no man yielded quicker when he was convinced; perfectly illustrating the difference between firmness and obstinacy. Of all the Presidents who have done me the honor to listen to my opinions, there was no one to whom I spoke with more confidence when I felt myself strongly to be in the right.

He had a load to carry all his life; resulting from a temper which refused compromises and bargaining, and went for a clean victory or a clean defeat, in every case. Hence, every step he took was a contest: and, it may be added, every contest was a victory. I have already said that he was elected a Major General in Tennessee—an election on which so much afterwards depended—by one vote. His appointment in the United States regular army was a conquest from the administration, which had twice refused to appoint him a Brigadier, and once disbanded him as a volunteer general, and only yielded to his militia victories. His election as President was a victory over politicians—as was every leading event of his administration.

I have said that his appointment in the regular army was a victory over the administration, and it belongs to the inside view of history, and to the illustration of government mistakes, and the elucidation of individual merit surmounting obstacles, to tell how it was. Twice passed by to give preference to two others in the West (General Harrison and General Winchester), once disbanded, and omitted in all the lists of military nominations, how did he get at last to be appointed Major General? It was thus. Congress had passed an act authorizing the President to accept organized corps of volunteers. I proposed to General Jackson to raise a corps under that act, and hold it ready for service. He did so; and with this corps and some militia, he defeated the Creek Indians, and gained the reputation which forced his appointment in the regular army. I drew up the address which he made to his division at the time, and when I carried it to him in the evening, I found the child and the lamb between his knees. He had not thought of this resource, but caught at it instantly, adopted the address, with two slight alterations, and published it to his division. I raised a regiment myself, and made the speeches at the general musters, which helped to raise two others, assisted by a small band of friends—all feeling confident that if we could conquer the difficulty—master the first step—and get him upon the theatre of action, he would do the rest himself. This is the way he got into the regular army, not only unselected by the wisdom of government, but rejected by it—a stone rejected by the master builders—and worked in by an unseen hand, to become the corner stone of the temple. The aged men of Tennessee will remember all this, and it is time that history should learn it. But to return to the private life and personal characteristics of this extraordinary man.

There was an innate, unvarying, self-acting delicacy in his intercourse with the female sex, including all womankind; and on that point my personal observation (and my opportunities for observation were both large and various), enables me to join in the declaration of the belief expressed by his earliest friend and most intimate associate, the late Judge Overton, of Tennessee. The Roman general won an immortality of honor by one act of continence; what praise is due to Jackson, whose whole life was continent? I repeat: if he had been born in the time of Cromwell, he would have been a puritan. Nothing could exceed his kindness and affection to Mrs. Jackson, always increasing in proportion as his elevation, and culminating fortunes, drew cruel attacks upon her. I knew her well, and that a more exemplary woman in all the relations of life, wife, friend, neighbor, relative, mistress of slaves—never lived, and never

presented a more quiet, cheerful and admirable management of her household. She had not education, but she had a heart, and a good one; and that was always leading her to do kind things in the kindest manner. She had the General's own warm heart, frank manners and hospitable temper; and no two persons could have been better suited to each other, lived more happily together, or made a house more attractive to visitors. She had the faculty—a rare one—of retaining names and titles in a throng of visitors, addressing each one appropriately, and dispensing hospitality to all with a cordiality which enhanced its value. No bashful youth, or plain old man, whose modesty sat them down at the lower end of the table, could escape her cordial attention, any more than the titled gentlemen on her right and left. Young persons were her delight, and she always had her house filled with them—clever young women and clever young men—all calling her affectionately, "Aunt Rachel." I was young then, and was one of that number. I owe it to early recollections, and to cherished convictions—in this last notice of the Hermitage—to bear this faithful testimony to the memory of its long mistress—the loved and honored wife of a great man. Her greatest eulogy is in the affection which he bore her living, and in the sorrow with which he mourned her dead. She died at the moment of the General's first election to the Presidency; and every one that had a just petition to present, or charitable request to make, lost in her death, the surest channel to the ear and to the heart of the President. His regard for her survived, and lived in the persons of her nearest relatives. A nephew of hers was his adopted son and heir, taking his own name, and now the respectable master of the Hermitage. Another nephew, Andrew Jackson Donelson, Esq., was his private secretary when President. The Presidential mansion was presided over during his term by her niece, the most amiable Mrs. Donelson; and all his conduct bespoke affectionate and lasting remembrance of one he had held so dear.

END OF VOLUME I.

INDEX TO VOL. I.

A

A. B. Plot, The.—Charges against Wm. H. Crawford, 35; the A. B. papers, a series of articles which appeared in the newspapers, 35; expectation of the accuser that the matter would lie over until after the Presidential election, 35; immediate action, 35; committee appointed, 35; answer of Crawford, 35; its character, 35; who written by, 35; proceeding in the case, 35; testimony of Edwards, 36; his proceedings, 36; report of committee, 36.

Adams, John, decease of, 87; sketch of his character, 87.

Adams, John Quincy, Secretary of State, 7; his diary relative to the unanimity of the cabinet on the Missouri question, 8; connection with the treaty of 1818, 15; on internal improvements, 22; candidate for the Presidency in 1824, 44; commencement of his administration, 54; his inaugural address, 54; grounds of opposition, 54; the majority of the Senate opposed, 55; strong minority of the House opposed, 55; position of the two Houses with regard to the President, 91; contest for Speaker, 92; organization of the committees, 92; contents of the President's message, 92; its notice of the Panama Congress, 92; the finances, 93; uselessness of retaining a balance in the treasury, 93; members of the two Houses, 93; array of business talent, 94; three classes of men: men of speech and judgment, men of judgment and no speech, men of speech and no judgment, 94; on the Committee of Bank Investigation, 241; his position on the slavery question, 636.

Affairs, how changed by the War of 1812, *and their subsequent aspect.*—War of 1812, 1; necessity and importance, 1; changes it produced in American policy, 1; state of the finances and currency under which it struggled, 1; its termination with respect to its causes, 1; gold ceased to be a currency, 1; silver banished, 1; local banks, 1; suspension of specie payments, 1; Treasury notes resorted to, 1; depreciation, 1; their use, 1; the Government, paralyzed by the state of the finances, forced to seek peace, 1; impressment the cause of the declaration of the war, 1; first time in modern history that a war terminated by a treaty without a stipulation as to its cause, 1; treaty of 1807, why rejected by the President, 1; its importance, 1; the war showed the British Government that the people of the United States would fight on the point of impressment, 2; no impressment since, 2; causes of the success of the war, in spite of the empty treasury, 2; exemption held by right and by might, 2; the financial lesson taught by the war, 2; the lesson when availed of, 2; its effects, 2.

The second Bank grew out of the war, 2; currency of the constitution not thought of, 2; national bank regarded as the only remedy, 2; its constitutionality, 2; the word "*necessary*," 2; Hamilton's grounds for a bank, 2; difficulties of the finances during the second war ascribed to the want of a bank, 3; concessions of its old opponents, 3; many subsequently convinced the constitutional currency had not had a fair trial, 3; national bank shown to be unnecessary by the Mexican war, 3; constitutional question decided, 3.

Protection of American industry as a substantive object grew out of the war, 3; incidental protection always acknowledged and granted, 3; domestic manufactures wanted, during the non-importation period of the embargo and hostilities, 3; want of articles of defence felt during the war, 3; protection for the sake of protection carried in 1816, 3; course of legislation reversed, 3.

Question of internal improvements developed by the war, 3; want of facilities for transportation felt in military operations, 3; the power claimed as an incident to the greatest powers, 3; found in the word "necessary," 3; complicated the national legislation from 1820 to 1850, 3; the question does not extend to territories, 4; no political rights under the constitution, 4; rivers and harbors—internal improvement of based on the commercial and revenue clause, 4; the restriction contended for, 4.

Boundaries between the treaty-making power and the legislative departments a subject of examination, 4; the broad proposition, 4; the qualification, 4; a vital one, 4; which department to judge of encroachments by the other? 4; discussions in Congress, between 1815 and 1820, on this point, 4.

The doctrine of secession was born of the war of 1812, 4; the design imputed to the Hartford Convention, 4; its existence raised the question, 4; the right then repudiated by the democracy, 4; language respecting it then south of the Potomac, 4; the question thus far compromised, not settled, 5.

Slavery agitation took its rise about 1819, 5; manner in which it was then quieted, 5; the compromise a clear gain to the anti-slavery side, 5; a southern measure, 5 its features, 5.

Debt created by the war, 5; amount of the public debt at its close, 5; the problem to be solved was whether a public debt could be paid in time of peace, 5.

Public distress becomes a prominent feature of subsequent years, 5; expansion and collapse of the bank, 5; gloom of 1819 and 1820, 5; commercial proceedings, 5; legislative proceedings, 5; distress the cry—relief the demand, 6; good results of the war, 6.

Amendment of the Constitution.—Mistakes of European writers on our system of Government, 37; Thiers and De Tocqueville, 37; the electors but an instrument to obey the will of the people, 37; electors useless, 37; amendment proposed, 37; views of the convention which framed the constitution, 37; Benton's remarks on a direct vote of the people for President, 37; "evil of the want of uniformity in the choice of Presidential electors endangers the rights of the people, 37; the district system, 38; origin of the general ticket system in 10 States, 38; objection to a direct vote of the people considered, 38; whence it is taken, 39; admit its truth, what then? 39; better officers elected, 39; ancient history, 39; triumph of popular elections, 39; other objections to intermediate electors, 40; time and experience condemn the continuance of the electoral system, 40; even if the plan of the constitution had not failed, it is better to get rid of the electors, 40; historical examples, 41."

An attempt to give the election of President and Vice-President to the direct vote of the people, 78; various propositions offered, 78; committee appointed to report, 78; plan reported by the committee. 78; its prominent features, 79; abolition of the electors and direct vote of the people—a second election between the two highest—uniformity in the mode of election, 79; advantages of the plan, 79.

Exclusion of Members of Congress from Civil Office appointments.—Inquiry into the expediency of amending the Constitution so as to exclude members from appointment to civil office moved, 82; motion only applied to the term for which they were elected, 82; committee report that the exclusion should extend to the Presidential term during which the member was elected, 83; proceedings of the convention that framed the constitution, 83; other conventions, 83; extracts from the proceedings of Federal Convention, 83; early jealousy on this point, 83; provisions for the independence of the two Houses, 83; instance of the observance of these provisions, 84; instance of the contrary, 84; the Constitutional limitation a small restraint, 84: views of the "Federalist," 84; what has been the working of the Government? 85; the effects of legislation, 85; other evils resulting from the appointment of members to office, 85; the independence of the departments ceases between the Executive and Legislative, 86; examples of early Presidents, 86.

ANDERSON, RICHARD C., Jun., Representative from Kentucky, 7; nominated minister to Panama, 66.

Appropriation for Defences and Fortification Bill.—Preparation recommended in the message, 554; referred and reported on, 554; resolved unanimously that the treaty with France be maintained and its execution insisted on, 554; and that preparations ought to be made to meet any emergency, 554; appropriation of three millions inserted in the Fortification bill, 554; rejected in the Senate, 554; House insist, 554; Senate adhere, 554; remarks of Mr. King, of Alabama, 554; this motion never resorted to until more gentle means have failed, 554; are gentlemen prepared to take upon themselves such a fearful responsibility as the rejection of this bill? 554; in what does it violate the constitution 555; appropriations under Washington's administration, 555; adherence carried, 555; conference asked by the House, 555; committees disagree, 555; question as to the hour of the termination of the session, 555; remark of Mr. Cambreleng, 556; responsibility put on the Senate, 556.

ARCHER, WILLIAM S., Representative from Virginia, 7; on reference of the bank memorial to a select committee, 234.

Arkansas Territory, cession of a part of to the Cherokees—Reasons for making her a first-class State, 107; a treaty negotiated altering the western boundary, 107; can a law of Congress be abolished by an Indian treaty? 107; is it expedient to weaken the future State? 107; supremacy of the treaty-making power considered, 107; power in Congress to dispose of territory, 108; the treaty ratified, 108; a southern measure, 108; twelve thousand square miles taken off of slave territory, 108; object to assist in inducing the removal of the Cherokees, 108; what became of the white inhabitants, 109; bought by the government, 109.

Arkansas and Michigan, admission of.—Application for an enabling act, 627; Congress refuse to pass it, 627; people hold conventions on their own authority and form constitutions, 627; message communicating the constitution of Michigan, 627; referred, also a memorial entitled from the "Legislature of Michigan," 627; objection to its title, 628; bill reported, 628; objections, 628; remarks of Mr. Buchanan, 628; bill passed and sent to the House, 628; the practice of admitting a free and a slave State together, 629.

Application of Arkansas taken up, 629; remarks of Mr. Swift against the admission, on the ground of slavery, 629; do. of Mr. Buchanan in favor of her admission, 629; Prentiss opposes the admission on the ground of the revolutionary manner in which the State had held her convention, 630; remarks of Mr. Morris, 630; bill passed and sent to the House, 631.

Moved in the House to postpone the Michigan to take up the Arkansas bill, 631; remarks of Mr. Thomas, 631; the point of jealousy between some Southern and Northern members revealed, 631; remarks on the motion to refer both bills and combine them in one, 631; Lewis's remarks on giving the Arkansas bill the priority of decision, 632; further debate, 633; bills referred to the Committee of the Whole, 634; points of the debate—First, the formation of constitutions without the previous assent of Congress; Second, the right of aliens to vote before naturalization; Third, the right of Arkansas to be admitted with slavery by virtue of the rights of a State—of the treaty of Louisiana and of the Missouri Compromise, 634, 635, 636; an account of the session of twenty-four hours, 636; bill put to vote, 637; struggle to bring the bills to a vote not to pass them, 637; causes, 637; one special one, 637.

ASTOR, JOHN JACOB.—His colony at Astoria, 13, 109.

AUSTIN, MOSES, founder of the Texas Colony, 674.

B

BALDWIN, HENRY, Representative from Pennsylvania, 7 coadjutor with Clay on the Missouri question, 10; appointed Justice of the Supreme Court, 120.

Bank of the United States.—When charter of first expired, 1; origin of the second, 2; its course in 1819, 5.

Constitutionality and expediency called in question in General Jackson's first message, 158; suggestion of one founded on the credit and revenues of the Government

158; a gold currency and an independent treasury suggested to General Jackson, and approved at once, 158; cause of a resort to the deposit system, 158; the idea of a government fiscal agent stigmatized, 158; reports of committees, 158; war of the bank commenced, 158; its alliance with the opposition, 158; its power, 158; statement of its president, 159; its power to ruin and destroy local banks, 159.

Ceaseless activity in behalf of the bank, since the President's message in 1829, 187; little done on the other side, 187; current all setting one way, 187; failure of attempts to counteract it, 187; permission asked to introduce a resolution against the re-charter, 187; speech on the occasion, showing that the institution had too much power over the people and the government—over business and politics; and disposed to exercise it against freedom and equality, 187; proposal to revive the currency of the constitution, 187; "willing to see the currency of the government left to the hard money intended by the constitution," 187; every species of paper left to the State governments, 187; experience of France and England, 187; a hard money party against a paper party, 187; justification for bringing forward the question of renewal, 188; the reports on previous resolutions offered at the close of each session and all in favor of renewal, 188; then followed the message of President Jackson, 188; its reference, 188; report, etc., 188; the conduct of the bank and its friends second ground for justification, 188; these proceedings, 189; an example drawn from the British Parliament, 189; remarks of Sir Henry Parnell, 189; do. of Mr. Hume, 189; do. of Mr. Edward Ellice, 189; do. of Sir William Pulteney, 190; it is said the debate will injure the stockholders, depreciate the value of their property, and that it is wrong to sport with vested rights, 190; the stockholders know the facts and such assertions absurd, 190; the institution has forfeited its charter and may be shut up any hour, 190; the case of the Bank vs. Owens, 190; parliamentary rule requiring members to withdraw who have an interest in the subject of discussion, 191.

The bank is an institution too great and powerful to be tolerated in a government of free and equal laws, 191; on renewal, its direct power must speedily become boundless and uncontrollable, 191; authorized to own and issue ninety millions, 191; its indirect power, 191; to whom is all this power granted? 191; by whom is it to be exercised? 191; it will become the absolute monopolist of American money, 191; what happened in Great Britain in 1795, 192; letter of the bank directors to Pitt, 192; condition of Great Britain at that time, 192; it subdued the minister to the purposes of the bank, 192; for twenty years the bank was the dominant power in England, 192; cannot the Bank of the United States act in the same way? 192

Its tendencies are dangerous and pernicious to the government and the people, 192; the heads of each mischief, 192, 193.

The exclusive privileges and anti-republican monopoly which it gives the stockholders, 193; the exclusive legal privileges it gives, 193; twelve enumerated, 194; their effect and bearing, 194; compensation made by the Bank of England for undrawn balances, 194; amount of undrawn balances, 194; injury suffered by the people on account of the uncompensated masses of public money in the hands of the bank, 195; to discredit and disparage the notes of all other banks by excluding them from the collection of the revenue, 196; the power to hold real estate, receive rents, &c., 197; effect of this vast capacity to acquire and legal power to retain real estate, 197; the power to deal in pawns, merchandise, and bills of exchange, 198; to establish branches in the different States without their consent and in defiance of their resistance, 199; exemption of the stockholders from individual liability, 199; to have the United States for a partner, 200; extract from the speech of Pulteney, 200; amount of stock owned by foreigners, 201; exemptions from due course of law for violations of its charter, 201; these privileges secured by a pledge of the public faith to charter no other bank, 202; the government from which we have made this copy has condemned the original, 202; correspondence between the Chancellor of the Exchequer and the Bank directors, 203; how was this Babylon prostrated? 204; effect of the speech, 204; how it was received, 204; leave refused, 205.

Statement that the bank has failed in furnishing a uniform currency, 220; it vicious and illegal currency, 220; origin of the practice, 220; leave to bring in a resolution declaring it illegal asked for, 220; reasons, 220; "the resolution expresses its own object, 221; the currency arraigned, 221; the points of incompatibility between this currency and the requisites of the charter, 221; fourteen points stated, 221; the currency fails at every test, 221; these orders cannot serve as currency because they are subject to the law of endorsed paper, 222; being once paid they are done with, 222; operations of the bank in 1817, 222; origin of the branch bank orders, 223; this currency ought to be suppressed, 223; the fact of illegality sufficient to require it, 223; pernicious consequences result from it, 223; the branch bank orders are not payable in the States in which they are issued, 223; practice of the Bank of Ireland, 224; leave refused, 224.

Message of the President in 1829–30, 224; its remarks relative to the bank, 224; the position of the constitutional question, 224; the democracy opposed not only the bank but the latitudinarian construction which would authorize it, 225; it was the turning point between a strong and splendid government on one side and a plain economical government on the other, limited by a written constitution, 225; the construction was the main point, 225; effect of the message on the democracy of the country, 225; the contest at hand, 225; violent attacks upon the President, 226; remark of M. Tocqueville on President Jackson and the bank, 226; every word an error, 226; examined, 226; application for a renewal of the charter when and why made, 226; action of friends of Jackson and the bank, 227; memorial for renewal presented, 227; course of events, 227; error of De Tocqueville exposed, 228; another extract, 228; its errors exposed, 229; consequences of refusing the re-charter, 229.

Re-charter.—Convention of the National Republicans to nominate a President, 232; the nominations, 232; addresses of the convention, 232; remarks relative to the bank, 232; "its beneficial character, 232; no pretext of any adequate motive is assigned for the President's denunciation, 233; are the people ready to destroy one of their most valuable institutions to gratify the caprice of the President? 233."

The Bank question presented as an issue of the election by its friends, 233; two classes of friends, 233; one friends of the President, the other against him, 233; how the consent of the former was obtained, 233; memorial for re-charter presented, 233; referred to a select committee in the Senate, 233; referred to the Committee of Ways and Means in the House, 233; reason of the difference, 233; motion to refer to a select committee, 234

remarks, 234; this measure entirely disconnected from the Baltimore convention, 234; "a selec committee the proper one, 234; the course in such cases, 234; the question should not be taken up at this session, 234; the stockholders left the application discretionary with the directors, 235; it will divide the whole country, 235; the bank has been charged with using its funds and those of the people in operating upon and controlling public opinion, 235; this of sufficient consequence to demand an accurate inquiry, 235; charged with violating its charter, 235; other charges, 235; memorial referred to Committee of Ways and Means, 235.

Investigation ordered.—Course necessary to be pursued by the opposition, 235; to prepare the people to sustain the veto, 235; policy of the bank leaders, 236; reasons for taking up the investigation in the House, 236; motion for inquiry made, 236; manner in which the motion was treated, 236 resistance to investigation, 236; "a re-charter is asked, yet the friends of the bank shrink from inquiry, 236; the inference which might be drawn from this resistance, 237; what is the ground of opposition? 237; how the memorial was treated in the other House, 237; result of the examination in 1819, 237; three years after it went into existence, it was on the verge of bankruptcy, 237;" right of either House to make the inquiry, 237; the misconduct of the bank in numerous instances, 237; list of accusations against the bank, 238; the friends of the bank obliged to declare in favor of examination, 238; modes of investigation proposed, 239; restrictions proposed to the inquiry, 239; remarks upon the manner in which the proposed inquiry has been treated by the House, 239; remarks on modes adopted by the bank for extorting usury, 240; another mode makes the loan take the form of a domestic bill from the beginning, 240; effect of the debate on the bank with the country, 240; speakers against the bank, 240; advocates of the bank, 241; the Committee of Investigation, 241; its composition, 241; three reports, 241; their character, 241.

The three per cent. debt.—This a portion of the revolutionary debt standing at sixty-four, 242; money in the bank to pay it, 242; the money retained to sustain the bank and the debt not paid until it rose to par, 242; remarks on the course of the bank, 242; the loss to the people, 243.

Bill for re-charter reported.—Remarks relative to previous charters, 243; former course of Webster, 243; his defence of his present position, 243; "the years that have passed, 243; the effects of experience, 243; action of Calhoun in procuring the present charter, 244; the vote of Webster against it, 244; his views, 244; evils of a disordered currency, 244; the small note currency cause of the small amount of specie in the country, 244;" the grant of exclusive privileges and the bonus required opposed, 245; remarks upon them, 245; the present application of the bank opposed, 245; "some years before the charter expires, 245; now late in the session, 245; not time to do justice to the subject, 245; other subjects of more immediate and pressing interest must be thrown aside, 245; an unfinished investigation presents another reason for delaying the final action of Congress on this subject, 245; the people have no opportunity to make up their minds on the information now printed, 246; this question belongs to the Congress elected within the next census, 246; looks like usurpation on the part of this Congress, 246; different representation in the next Congress, 246; a charter should be granted with as little invasion of the rights of posterity as possible, 246; this question must effect the presidential election if not decide it, 246; take a lesson from the monarchial parliament of England, 247."

A motion declaratory of the right of the States to admit or deny the establishment of branches of the mother bank within their limits, offered, 247; remarks, 247; "if this amendment is struck out it is tantamount to a legislative declaration that no such rights existed, 247; decision of the Supreme Court on the right of the States to tax the branches, 247; this is the supremacy of the bank and the degradation of the States, 247; the argument that these branches are necessary to enable the Federal Government to carry on its fiscal operations and therefore ought to be independent of State legislation, is answered by the determination of Congress itself, 247; every thing is left to the bank itself except the branch at this place, 247; the establishment of branches is a mere question of profit and loss to the bank, 247; point of the question, 247; motion rejected.

Motion to strike out the exclusive privileges and to make the stockholders liable, 248; "example of the Scottish banks, 248; the excellence of their plan, 248, clauses granting exclusive privileges, 248; the establishment of any other bank by the United States prohibited during the existence of the charter, 248; this is contrary to the genius of our Government, 249; the restriction upon future Congresses is at war with every principle of constitutional right and legislative equality 249; is this Congress to impose restrictions upon the power of their successors? 249; in nine months this Congress is defunct, 249; the renewed charter will not take effect till three years after the full representation of the next Congress in power, 249."

All amendments proposed by the opponents of the bank voted down, 250; the interest of members of the Senate as stockholders, 250; bill passed in the Senate and House, 250.

The Veto.—"If this government sells exclusive privileges, it should at least exact for them as much as they are worth in the market, 251; the present value of the monopoly is seventeen millions, and the act proposes to sell it for three, 251; how can the present stockholders have any claim to the special favor of the Government? 251; this act does not permit competition in the purchase of this monopoly, 251; not just to set others aside and grant this privilege to the few who have been fortunate enough to secure the stock, 251;" the force of precedents for constitutionality argued against, 252; decision of the Supreme Court, 252; examined 252; remarks, 252; "precedence is a dangerous source of authority, and should not be regarded as deciding questions of constitutional power except where the acquiescence of the people and the States is well settled, 253; precedents are really against the bank, 253; if the opinion of the Supreme Court covered the whole ground of this act, it ought not to control the coordinate authorities of this Government, 253; in the case relied on, the Supreme Court have not decided that all the features of this corporation are compatible with the constitution, 253; the misconduct of the institution, both in conducting its business and in resisting investigation, 253; suspicions are entertained and charges made of gross violations of the charter, 253; the recommendation of a majority of the committee, 253; additional reason for less haste and more caution, 253."

The great speeches from the advocates of the bank now made to repel the effects of the veto, 254; a transfer of the question to the political arena, 254; to the presidential election, 254; frightful distress predicted, and a change of the chief magistrate the only means of

averting the calamity, 254; remarks of Webster on this point, 254; remarks of White upon the bank taking the lead of a political party, 254; the distress pictured by Clayton, 254; the winding up of the bank, with regard to time, 255; case of the previous bank, 255; menace of distress from the bank if denied a renewal, entirely gratuitous, 255; vehement declamation against the veto, 255; remarks of Clay on the veto power, 255; reply of Benton, 255; objects of the vetoes of the French king, 256; "the fable of the cat and the eagle, 256; why debate the bank question, now it is vetoed, and not debate it before? 257; the bank is finished, why debate it now? 257; the bank is in the field, a fearful and tremendous combatant in the presidential election, 257; the Great West is selected as the theatre of her operations, 257; ruin is to be the punishment of the West, if she votes for Jackson, 257; the bank debt has been created for electioneering purposes, 258; this point examined, 258; the establishment of several new branches and the promise of more, 259; the alleged necessity for the prompt and vigorous collection of this debt, if the charter is not renewed, 259; the opinion of the Senator from Kentucky, about the legality of this trust, 259; once in every ten years the capital of this debt is paid in interest, 259; the ruinous drain of capital in hard money from the West, 259; the old banks of Ohio, Kentucky, and Tennessee, defended from the aspersions cast on them, 260; manner in which the charter was pushed through, pending an investigation, 260; the foreign stockholders of the bank, 260; the bank a monopoly, 261; English authority for calling the Bank of England a monopoly, and the British bank in America is copied from it, 261; the President's idea of his oath, 261; his independence in construing the constitution, 262; the drain upon the resources of the West, made by the bank, 262; address to the Jackson bank men, 262; address to the West, 262; the dangerous power of the bank and the present audacity of her conduct, 263."

"Dissatisfaction expressed that the speeches of some Senators fill the galleries, and those of others empty them, 263; charged with a want of courtesy to the President, 263; charges of the Senator from Missouri, once against the President, 263.

"No adjourned question of veracity between the Senator from Missouri and the President, 264; the prediction charged upon the Senator from Missouri, 264;" further debate, 264; direful picture of distress drawn, 265.

Delay in paying the three per cents.—Message recommended that the United States stock should be sold, and that a committee be appointed to investigate its condition, 287; referred to a special committee of friends of the bank, 287; objected that the committee should not proceed until the report of the agent of the Secretary of the Treasury was made, 287; its depreciation of the stock, 287; this objection fallacious, 287; the loss of the bank, by depreciation, stated at half a million, 288; nothing before the House to make an inquiry into the condition of the bank desirable, 288; eventual ability to discharge all its obligations, is not of itself sufficient to entitle the bank to the confidence of the Government, 288; what was the Executive complaint against the bank? 288; that it had interfered with the payment of the public debt, 288; effect of the charges upon the feelings of the corporators, 288; the report of the agent, 288; the exhibit contrasted with its actual state, 288; a large surplus presented for the stockholders, 289; the report a mere compendium of the bank returns, 289; proceedings of the bank with regard to the three per cents, 289; investigation referred to the Committee of Ways and Means, 289 report, 289; public deposits reported entirely safe, 289 resolution to continue the deposits in the bank offered, 289; debate, 289; the bank exceeded its legitimate authority in relation to the three per cents, 290; had the bank promptly paid the public money deposited in its vaults when called for, 290; proceedings of the bank, 290; resolution carried, 291; loss by the manner the three per cents were paid, 291.

Sale of Stock in the.—Sale of United States stock in all corporate companies recommended by the President, 294; partnership of government with corporations condemned, 294; bill introduced, 294: moved to reject it, 294; debate, 294; indignation at this persecution of a national institution, 294; indignities to which members were subjected who presumed to take any step concerning the bank which militated against that corporation, 295; a plain business proceeding, 295; an isolated proposition, 295; the bill summarily rejected, 295; fifty members borrowers of the bank, 296; the same thing had happened once before, 296; proposed in 1827 to sell the stock solely on the ground of public advantage, 296; remarks on this proposition at the time, 296; reflections, 296.

Removal of the Deposits.—Order for removal issued by the Secretary of the Treasury, 373; the President's own message, 374; reports of directors to the President, 374; extracts from them, 374, 375; resolutions adopted by the board, 376; further outrages of the bank, 376; the exchange committee of the banks, 376; paper read by President Jackson to his Cabinet, 376; extracts, 377, 378; impression produced by the removal, 379.

Proceedings of the Bank on the removal of the Deposits.—The reference of the President's paper to a committee, 379; report, 379; extracts, 379; its tempe-, 379; gives the lead to proceedings in Congress, 380 the violations of law and the constitution referred to, 380; amount of the charges against the President by the bank, 381.

Report of the Secretary of the Treasury relative to removal of the Deposits.—Reasons for the cessation of deposits in the bank, 381; the duty of the Secretary, 381; no prospects of a renewal of the charter, 382; other reasons, 383; the board of directors, 383; authority of the Secretary to remove the deposits, 384; the deposit banks, 385; difficulty of obtaining the deposit banks, 385; power of the Bank of the United States, 385.

In the Senate.—Report considered, 393; proposed, that the Senate act upon it at once without the intervention of a committee, 393; the House the proper place to investigate the charges made in that report, 393; resolution offered, 393; referred, 394; report, 394; remarks on the despotism of the committee, 394; reply, 394; report drawn by the counsel for the bank, 394; inefficiency of the resolution, 395; no action proposed, 395; resolution adopted, 395.

Resolution subsequently proposed again with another requiring the return of the deposits to the bank, 396; remarks, 396; impropriety of the resolutions so near the close of the session, 396; other considerations, 397; resolutions adopted, 397; sent to the House and not taken up, 397.

In the House.—Report of the Secretary, memorial of the bank, and of the government directors referred, 398; report, 398; adopted, 398.

Government Directors, their Nomination and Rejection.—Opposition manifested to four of the five nominated, 385; resolution of inquiry into their fitness, &c. offered and rejected, 385; four rejected, 386; no com

plaint against them except from the bank, 386; rejected for the report made to the President, 386; re-nominated, 386; message, 386; extracts, 387, 388; question raised as to which was the nominating power for bank directors, the President and Senate or the Bank and Senate, 388; determination to try this question, 389; message referred to a committee, 389; report against the re-nominations, 389; the absolute right of the Senate to reject, 389; their privilege to give no reasons, 389; the general policy of making re-nominations, 389; extracts, 389; memorial of the rejected directors, 389; extracts, 390; their rights and duties as government directors, 390; opinion of Alexander Hamilton relative to government directors, 391; opinion of Alexander J. Dallas, 391; reasons why the motion to strike out government directors was resisted when the charter was under consideration, 391; they are the guardians of the public interest, and to secure a just and honorable administration of the affairs of the bank, 391; the nominations again rejected, 392; reasons kept secret, 392; motion made to publish the proceedings, 392; lost, 392; remarks on the Report of the Committee of Investigation relative to the Exchange Committee, 392.

Call on the President for a copy of the paper read to his Cabinet.—Request to be informed if it was genuine, 399; and if so to furnish a copy, 399; Senate not the branch of the Legislature to call for this document, 399; uses to which the paper might be put, 399; it cannot be rightfully called for, 399; resolution passed, 400; answer of the President, 400; denied the right to call, &c., 400.

Attempted Investigation.—Select Committee appointed in the House to investigate the affairs of the United States Bank, 458; objects to be ascertained, 459; authority given to the committee, 459; right of the House to make the investigation, 459; proceedings of the bank to defeat investigation, 459; report of committee, 459; extracts, 460; treatment of their call for certain books, 461; action under subpœnas, 461; a warrant recommended for the apprehension of the president and directors, 461; the committee of 1819, 462.

Investigation by the Senate.—Since much ground lost in public opinion by resisting the investigation of the House to retrieve the bank, an investigation commences in the Senate, 470; committee moved, 470; view of this act of the Senate, 471; the members of the committee defenders of the bank, 471; the only semblance of precedent, 471; called the "Whitewashing Committee," 471.

Downfall of the Bank.—Copy of resolutions of its stockholders, 471; extracts from Philadelphia papers, 472; report of the Finance Committee, 481; its friendly reception, 481; its contents, 481; its declarations contradicted by Senator Benton, 482; extracts, 482; imputations upon the President, Vice-President, and Senator Benton, 482; committee departed from the business with which they were charged, 483; the charge of hostility to the bank on the part of the President, 483; defends the Secretary of the Treasury against the imputations of the report, 484; misconduct of the bank shown from recent facts, 484; the abduction of a million and a half from New Orleans, 485; the report *ex-parte*, 486; reply in defence of the report, 486; extracts, 486. *See Jackson's Administration.*

Banks in the District, recharter of.—Speech of Senator Benton, 658; "the charters wrong, 658; no bank of circulation ought to be authorized in this district, 659; none to furnish other currency than large notes should be chartered anywhere, 659; ameliorations in charters proposed to be granted in order to render them less dangerous to the community, 659; liability of the stockholders, 659; bank stock to be subject to taxation like other property, 659; to issue no notes less than twenty dollars, 659; the charters to be repealable at the will of Congress, 659; evil of small notes classed under three heads, 660; the banishment of gold and silver counterfeiting and throwing other burdens of losses upon the poorer classes, 660; the basis of circulation throughout the country should be hard money, 662; the true idea of banks seemed to be lost in the country, 663; the faculty of issuing paper money renders banks dangerous, 663; progress of banking business is alarming and deplorable in the United States, 663; the burdens which the banks impose on the people, 664;" recharter carried, 665.

Barbour, James, Senator from Virginia, 7; governor, 7; votes for the Missouri Compromise, 8; on the Virginia resolutions, 35; Secretary at War, 55; negotiates treaty with the Cherokees, 107.

Barbour, Philip P., Representative from Virginia, 7; on selling the stock of the United States in the bank, 296; his character, 296.

Barry, William T., Postmaster General, 120; appointed Minister to Spain, 181.

Bayard, James, Commissioner at Ghent, 91.

Benton, Thomas H., instigator of the clause prohibiting legislative interference with slavery in the constitution of Missouri, 8; his first experience in standing "solitary and alone," 16; views relative to the settlement of Oregon, 18; first suggests sending ministers to Oriental nations, 14; denounces the treaty of 1818, 15, 17; moves amendment to the constitution, 37; visit to Jefferson, 43; offers a bill to occupy Columbia river, 50; remarks on the treaty with the Creeks, 61; on the duty on indigo, 97; on the sale of the public lands, 103, 130; on slavery, 136; on the peroration of Webster, 142; on the regulation of commerce, 151; the repeal of the alum salt tax, 155; on the Bank of the United States, 187; his silence relative to the nomination of Van Buren as Minister to England, 218; letter to Van Buren, 218; on the illegal currency of the Bank of the United States, 220; on government expenses, 231; against the exclusive privileges of the bank, 245; reply to Clay on the veto power, 255, 256; on the compromise tariff bill, 319; on home valuation, 324; on Missouri resolutions, 360; on report of the Secretary of the Treasury, 393; on the removal of the deposits, 406; gives notice of the expunging resolution, 428; on a gold currency, 436; on public distress, 462; on the Report of the Senate Committee to investigate the affairs of the bank, 482; relative to the expunging resolutions of Alabama, 524; on the Branch Mints, 551; on distribution of the proceeds of the public lands, 560; on the memorial to abolish slavery in the District of Columbia, 577; on French affairs, 591; on abolition petitions, 617; on the Expunging resolution, 645; on distribution of the land proceeds, 649, 652; on rechartering the district banks, 658; on Texas Independence, 670; on the specie circular, 677; on revision of the specie circular, 695, 701; on the salt tax, 714; on the Expunging resolution, 719.

Berrien, John M., remarks on the treaty with the Creeks, 62; attorney-general, 120; resigns his seat in the cabinet, 181.

Bibb, George M., on home valuation, 324; on the French spoliation bill, 487.

Birthday of Jefferson and the doctrine of nullification, 148.

Blair, Francis P., how led to establish the Globe newspaper, 130.

BLOOMFIELD, JOSEPH, Representative from New Jersey, votes for the admission of Missouri, 9.

BOULDIN, JAMES W., on the admission of Arkansas, 631.

BRANCH, JOHN, Secretary of the Navy, 120; resigns his seat in the cabinet, 181.

Branch Mints at New Orleans and in the Southern gold regions.—Bill reported, 550; opposed by Mr. Clay, 550; unwise and injudicious to establish these branches, 550; indefinite postponement moved, 550; no evil in the nullification of mints, 550; the present one sufficient, 551; the measure would be auxiliary to the restoration of the metallic currency, 551; remarks of Mr. Benton, 551; "constitutional right to establish these mints, 551; an act of justice to the South and West, 551; give the mint five or six branches and nobody would want the bank paper, 552; the idea of expense on such an object scouted, 552; for the greater part of the gold currency is in the vaults of the bank, 552; what loss has the Western people now sustained for want of gold? 552; in favor of measures that will put down small paper and put up gold and silver, 552;" postponement lost, 553; other motions made and lost, 553; bill passed, 553.

British West India Trade, recovery of.—Account of this trade, 124; six negotiations carried on between the United States and Great Britain on this subject, 124; limited concessions only obtained, 125; a primary object with Washington, 125; his letter of instructions to Gouverneur Morris, 125; a prominent point in our first negotiation in 1794, 125; attempts of 1822 and 1823, 125; remarks on the negotiation of 1822, 125; effect of the word "elsewhere," 126; attempts of Mr. Adams' administration to negotiate, 126; effects of his failure, 126; Gallatin's interview with Mr. Huskisson, 126; despatch, 126; facts communicated to Congress by President Adams, 127; the case presented hopeless, 127; the loss of this trade an injury to the country, 127; the position of General Jackson, 127; minister sent to London, 127; reasons given for a renewed application, 128; point of right waived, 128; the trade recovered, 128; the trade under the act of Parliament, 128; the grounds of success, 128.

BROWN, BEDFORD, for Van Buren as Minister to England, 216; on the branch mints, 551; on abolition petitions, 612.

BROWN, JAMES, Senator from Louisiana, 7; votes for the Missouri Compromise, 8.

BUCHANAN, JAMES, presents memorial of the Society of Friends, 576; on French affairs, 590; in favor of the admission of Arkansas, 630; on distribution of the land proceeds, 708.

BURKE, EDMUND, on the sale of the crown lands, 102.

BURR, COL. AARON, *decease of.*—Brilliant prospects ending in shame, 681; in the expedition with Arnold, 681; the opinion of Washington, 681; position at the close of the presidential election of 1800, 681; his character as regarded by his compeers, 682; his talents, 682; the fate of Hamilton, 682.

BURTON, HUTCHINS G., Representative from North Carolina, 7; governor, 7.

BUSH, HENRY, Representative from Ohio, 7.

BUTLER, BENJAMIN F., nominated Secretary of the Treasury, 470.

BUTLER, THOMAS, Representative from Louisiana, 7.

C

CALHOUN, JOHN C., Secretary at War, 7; on internal improvement, 22; candidate for the Vice-Presidency in 1824, 45; rupture with Jackson, 167; his friendship for Jackson, 218; on the compromise tariff bill, 315; on home valuation, 324; offers nullification resolutions, 334; on the principles of nullification, 335; on distribution of proceeds of land sales, 364, 651, 709; on the removal of the deposits, 411; on the plan of relief, 434; on the expunging resolutions of Alabama, 526, 527; on the branch mints, 553; on the combination of the slave States, 585; on French affairs, 591; on abolition petitions, 611, 614, 619; on the independence of Texas, 667; on the Expunging resolution, 728.

CAMBRELENG, C. C., on the Committee of Bank Investigation, 241; on the fortification bill, 556.

CAMPBELL, JOHN W., Representative from Ohio, 7.

CANNON, NEWTON, Representative from Tennessee, 7; governor, 7.

CARROLL, CHARLES, *decease of;* last of the signers of the Declaration of Independence, 476; fate of other signers felicitous, 477; his career, 477; not present on the day of signing, 477; signed afterwards, 477; incident, 477.

CARSON, KIT, application for a commission in the army, 183.

CASS, LEWIS, Secretary at War, 181.

CHAMBERS, E. F., against Van Buren as Minister to England, 215.

CHANDLER, JOHN, Senator from Maine, 9; votes for the admission of Missouri, 9.

Chesapeake Canal discussed, 22.

CLARKE, GEN., treaties with the Indians, 29.

CLAY, HENRY, Representative from Kentucky, 7; efforts for the declaration of war in 1812, 6; moves a joint committee of both Houses on the admission of Missouri, 9; often complimented as the author of the Compromise of 1820, 10; selects the members of the joint committee in the House, 10; his coadjutors, 10; movement against the treaty of 1818, 17; on internal improvement, 22; address to Lafayette, 30; on public distress, 32; lays before the House the note of Vivian Edwards, 34; appoints committee on charges against Crawford, 35; candidate for the Presidency in 1824, 44; letter to Benton relative to declaring his intention previously to vote for Adams, 48; Secretary of State, 55; Commissioner at Ghent, 91; against Van Buren as Minister to England, 215; nominated for the Presidency, 232; remarks on the veto power, 255, 256; on the origin of the protective policy, 267; report relative to the public lands, 275; candidate for the Presidency, 282; on the Compromise Tariff bill, 313; on Kendall cotton, 319; on distribution of proceeds of land sales, 363; on report of the Secretary of the Treasury, 393; on the removal of the deposits, 402; on the expunging resolutions of Alabama, 525, 527; on the bill to suppress incendiary publications, 586; on distribution of land proceeds, 707; on the Expunging resolution, 729.

CLAY, MRS., her appearance on the evening previous to the duel between Clay and Randolph, 74.

CLAYTON, J. M., against Van Buren as Minister to England, 215; on the coming distress of the people, 234; on home valuation, 324-326; on French affairs, 594; moves a committee of investigation on the Bank affairs, 236; on the committee to investigate the affairs of the U. S. Bank, 241.

COBB, THOMAS W., Representative from Georgia, 7.

COOKE, JOHN, Representative from Tennessee, 7.

COLES, EDWARD, publishes correction of errors relative to the passage of the ordinance of 1787.

Columbia River, occupation of, bill to authorize the President to take possession and occupy the country offered, 50; object of the British, 50; the British pretensions examined under their own exhibition of title, 50, 51, 52, 53; title as claimed by the United States, 54.

Combination against General Jackson.—See Bank of the United States.

Commerce, regulation of.—The power which is given to Congress by the constitution, 149; not yet been executed in the sense intended by the constitution, 149; views of Mr. Jefferson, of Madison, Hamilton, &c., 149; remarks, 149; the principle of the regulation was to be that of reciprocity, 150; mode of acting, 150; object to carry out these views on the extinction of the public debt, 150; bill to revive the policy of the Madison resolutions, 150; Madison's remarks, 150; "the commerce of the United States not on that respectable footing to which its nature and importance entitled it, 150; situation of things previous to the adoption of the constitution, 150; effects to be produced by the resolutions proposed, 150; advantageous position this country is entitled to stand in, 150; our country may make her enemies feel the extent of her power, 150;" "bill proposed, 151; to provide for the abolition of duties, 151; the title of the bill, 151; the bill, 152; the first section, 152; contains the principle of abolishing duties by the joint act of the Legislative and Executive departments, 152; the idea of equivalents, 152; in what way may the restriction on our commerce be best removed, regulated, or counteracted? 152; two methods, 152; friendly arrangements, 152; the plan proposed, 152; benefits resulting from an abolition of duties, 153; do not our agriculture and manufactures require better markets abroad than they possess at this time? 153; the merits of the plan, 153; its success, 153; advantages arising from a payment of the public debt, 153; the treaties should be for limited terms, 154;" remarks, 154.

Committee on the charges against W. H. Crawford, 35; on amendments to the constitution, 78; on the reduction of Executive patronage, 80; on the application of the bank for a renewal of its charter, 233; House, to whom was referred the memorial of the bank, 235; of investigation into the affairs of the U. S. Bank, 241; to investigate the affairs of the bank, 458, 470; on incendiary publications, 580; on abolition petitions, 621.

Congress, 22d, its members, 208; their talent, 208; commencement of 24th, 568; when does the term of its session expire? 598, 599.

Cook, Daniel P., Representative from Illinois, 7.

Crawford, William H., Secretary of the Treasury, 7; devises a measure of relief for the public land debtors, 12; on internal improvement, 22; charges against, 35; candidate for the Presidency in 1824, 44; declines the Secretaryship of the Treasury tendered by Adams, 55; letter to Mr. Forsyth, 182.

Crittenden, John J., on the recision of the specie circular, 698.

Crooks, Ramsey, founder of the colony at Astoria, 13.

Crowell, John, Representative from Alabama, 7.

Cumberland Road discussed, 22.

Cushing, Caleb, on the admission of Arkansas, 632.

D

Dallas, George M., presents memorial for a renewal of the bank charter, 227; remarks, 227; on the operation of the Tariff, 270; on home valuation, 324.

Dane, Nathan, claimed as the author of the ordinance of 1787, 133.

Daniel, on the Virginia resolutions, 351.

Davis, John, on the compromise tariff bill, 310.

Debt, public, amount of at the close of the second war, 5.

Deposit Bank bill, to regulate the custody of the public money, 553; bill once defeated in the Senate, 553; sen up again and passed, 553.

Dickens Asbury, writes the answer of Crawford to charges against him, 35.

Distribution of the Revenue.—These propositions first opposed and afterwards favored by Mr. Calhoun with the salvo of an amendment to the constitution, 556; committee of inquiry appointed, 556; basis upon which the committee was proposed, 557; first meeting and a subcommittee appointed, 557; the report an ingenious and plausible attack upon the administration, &c., 557; debate on the report, 557; expenses doubled from extraordinary objects, not belonging to the Government, temporary in their nature and transient, 557; the distribution of the surplus and the amendment of the constitution, 557; distribution the only practical depletion of the Treasury and remedy for the corruptions which an exuberant Treasury engendered, 557; no minority report made, 557; custody of the public moneys not illegal, 557; opponents of the Administration defeated the Deposit Regulation bill, 557; the report, 557; "what is to be done with the surplus? 557; existence of our institutions and the liberty of the country may depend on the success of this investigation, 558; danger from excess of patronage arising from excess of revenue must be temporary, 558; the Government in a state of passage from an excess of revenue to a limited revenue, 558; objects of investment, 558; objections to distribution, 558; effects of distribution, 558; reasons for suggesting this proposal, 559."

Reply of Senator Benton, 559; "proposition in the report to amend the constitution for eight years to enable Congress to make the distribution, 560; eclipses all other propositions, 560; predictions from the same source of a deficiency of the revenue, 560; anecdote, 560; the Treasury was to be bankrupt and the currency ruined, 560; the amendment of the constitution, 561 this scheme an old acquaintance on this floor, 561; the statement of a surplus examined, 561; report of the Secretary of the Treasury, 562; it is said there is no way to reduce the revenue before the end of 1842 without violating the compromise, 563; sources from which a large reduction could be made, 563; it is said there is no possibility of finding an article of general utility on which the surpluses could be expended, 564; several useful, necessary, and exigeant measures, 564; defenceless state of the country, 564; fortifying the coasts, 564: message of President Monroe in 1822, 565; extracts, 566; remarks upon the extracts, 566, 567;" no vote ever taken on the amendment to the constitution, 567; deficiency in the Treasury, 567; distribution afterward took place without the amendment, 567.

Extract from the National Gazette attributed to Nicholas Biddle, 649; distribution nearly become a party measure, 649; the plans proposed, 649; remarks of Senator Benton, 649; introduces an antagonistic bill, devoting the surplus money to the public defences, 649; making an issue between the plunder of the country and the defence of the country, 649; every surplus dollar required for the defences, 650; bill passed Senate, 651; sent to the House, 651; course adopted to secure votes in the House, 651.

Scheme of deposit with the States, 651; objections, 651; vote on the passage of the bill, 652; objections urged against the bill, 652; attempt to debauch the people, 653; consequences must be deplorable and destructive to the Federal Government, 654; the progress of the distribution spirit, 654; the measure goes to sap the foundations of the Federal Government, 655 is it wise

to throw away this money? 656; nothing but evil in this fatal scheme, 657; bill passes the House, 657; feelings of the President on approving of the act, 657.

Moved that a bill be brought in to release the States from all obligations ever to return the dividends under the deposit act, 707; motion condemned at the outset, 707; laid on the table, 707; Clay's movement to revive the land distribution bill, 707; his remarks, 707; a substitute reported, 708; kindred schemes, 708; Calhoun's proposition, 708; debate, 708; Calhoun in reply, 709; proposition rejected, 710; Allen's proposition, 710; laid on the table, 710; deposit clause attached to the appropriation bill, 711; struck out in the Senate, 711; lost, 712.

Delaware.—Her position in relation to slavery, 10.

DE TOCQUEVILLE, errors of, 159; errors respecting the House of Representatives, 205; errors respecting Bank of the United States, 226, 228.

Duel between Clay and Randolph.—Interview between Randolph and Benton, 70; Randolph declares he shall not fire at Clay, 70; circumstances of the delivery of the challenge, 70; reasons for refusing to fire at Clay, 70; meaning of "two pledges" referred to by Mr. Randolph, 71; conduct of Randolph, 71; characteristics, 71; Randolph's letter of acceptance, 71; protest of Randolph, an explanation, 71; further communications, 72; remarks on Randolph's speech in the Senate, 72; attempt of the seconds to delay the meeting, 72; the report of Randolph's remarks made to Clay, 73; inquiry between the seconds as to the cause of the quarrel, 73; further views on the speech, 73; "Puritan and blackleg," 73; place of the duel, 73; interview between Benton and Clay, 74; subsequent interview between Benton and Randolph, 74; Randolph arranging his worldly affairs, 74; Randolph at the bank, 74; the pieces of gold, 75; manner in which the word was to be given, 75; the preparations on the ground, 75; an accidental discharge of a pistol, 75; Randolph's remark, 75; after the first fire Benton interposes, 76; Clay's answer, 76; Randolph's feelings and remarks, 76; the second fire of Clay, 77; Randolph fires in the air, 77; reconciliation and gratification of the parties, 77; the gold seals of Hamilton, Tatnall, and Benton, 77.

DUNCANSON, J. M., interview with Gen. Duff Green, 128.

DUVAL, Judge of Supreme Court, 8.

E

EARLE, ELIAS, Representative from South Carolina, 7; Governor, 7.

EATON, JOHN H., Secretary at War, 120; resigns his seat in the Cabinet, 181; appointed Governor of Florida, 181; Minister to Spain, 181.

EDWARDS, WELDON N., Representative from North Carolina, 7; votes for the Missouri Compromise, 8.

EDWARDS, NINIAN, note of, 34; brought back from his mission to Mexico, by the Sergeant-at-Arms, 35.

Election of 1832.—The candidates, 282; a question of systems and measures tried in the persons of those who stood out boldly in their representation, 282; the defeat of Clay, 282; the success of Jackson, 282; the point and lesson of the Vice-Presidential election, 282; the vote, 282; Anti-masonic excitement, 282; its result, 283.

ELLIOTT, JOHN, votes for the Missouri Compromise, 8; remarks on the removal of the Indians, 27.

ELLMAKER, AMOS, candidate for the Presidency, 282.

EUSTIS, WILLIAM, Representative from Massachusetts, 7; of revolutionary memory, 7.

EWING, THOMAS, against Van Buren as Minister to England, 215; on the specie circular, 694.

Expenses of Government.—Expenses from 1820 to 1831, 230; comparison with the present day, 230; remarks, 230; "It is said that since 1820 the expenses have nearly doubled, 230; excepting four years the expenses have not increased, 230; cause of reduced expenditures in certain years," 230; error in the basis of calculation, 231; "two great and broad facts in view, 231; expenditures for different years, 231; object to show a great increase in a short time," 232; important to know the correct expenses, 232.

Expunging resolution, notice of by Senator Benton, 428.

Do. of Alabama.—Resolutions of the General Assembly of Alabama, entreating their Senators to use their best endeavors to cause to be expunged from the Journal of the Senate the resolve condemnatory of President Jackson for the removal of the deposits, 524; several States had already given instructions, 524; inquiry of Mr. Clay relative to the intention of the Senator from Alabama relative to the resolutions, 524; reply of Mr. Benton, 524; the notice given by him at the time of passing the condemnatory resolution, 524; reasons for giving the notice, 524; answer to the inquiry of Mr. Clay, 525.

Remarks of Mr. King, 525; "surprised at the question," 525; bound to obey instructions, 525; if the gentleman from Missouri declined, he should at the proper time bring forward an expunging resolution, 525; further remarks, 525; Mr. Clay's remarks, 525; "no motion accompanies these resolutions, 525; the inquiry a natural one, 525; a hope that the resolutions would be withdrawn, 526; if, after consulting precedents, the Senator from Alabama should deem proper to offer them, they would be entitled to consideration, 526; until then, his duty to resist such an unconstitutional procedure as the reception of these resolutions," 526.

"Decline to accede to this proposition, 526; object to carry out his instructions, 526; at a proper time a distinct proposition would be presented on this subject," 526.

Moved to lay the resolutions on the table, by Mr. Calhoun, 526; object to give the Senator an opportunity to prepare a rescinding resolution, 526; curious to see how such a proceeding would be reconciled with the independent existence of the Senate, 526; how is it proposed to repeal a journal? 526; the only course left is to declare that the principle upon which the Senate acted is not correct, 526; what is the principle to be overthrown but that "we have a right to express our opinions," 526; then it comes to this, that the Senate had no right to express its opinion in relation to the executive, 526; "the king can do no wrong," 526; this is the very question in which the expunging our legislative freedom and independence is to be agitated, 527; a question of the utmost magnitude, 527; none of deeper or more radical importance, 527.

The question on receiving the resolutions, 527; the case of Georgia legislative proceedings, 527; the case of Wilkes, in the British House of Commons, 527; no doubt of the power of the Senate to repeal, 527; have we not it in our power to retrace our steps when we have done wrong, or to correct our journal, which asserts what is not true? 527; the democratic party of the country had declared the facts of the journal to be false, 527; the party to which Mr. Calhoun belongs, 527; resolution laid on the table, 528; reception and printing refused to a resolution of a sovereign State, 528.

Expunging Resolution of Senator Benton, 528; extremely distasteful to a majority of the Senate, 528; characterized as an indictment which the Senate itself was required to try, and to degrade itself in its own con-

demnation, 528; remarks, 528; this bitterness aggravated by the course which the public mind was taking, 528; resolutions of several States had arrived, instructing their Senators to vote for the expurgation, 529; speech of Senator Benton on the motion, 529; time of presenting the criminal resolution, 529; length of its discussion, 529; date of its passage, 529; an announcement of a series of motions for its expurgation, 529; this step considered for four months, 529; was expurgation the proper mode, 529; the criminating resolution combined all the characteristics of a case which required erasure and obliteration, 529; a case of the exercise of power without authority and without jurisdiction, 529; other modes of annulling the resolution not proper in this case, 529; they would imply rightful jurisdiction, a lawful authority, a legal action, though an erroneous judgment, 529; it is objected that the Senate have no right to expunge any thing from its journal, 529; it is said we have no right to destroy a part of the journal, 529; to expunge, it is said, is to destroy, 529; not so, 529; it is incorporated in the expunging resolution, and lives as long as that lives, 529; the case of the Middlesex election, 529; the resolution to expel John Wilkes expunged from the journals of the House of Commons, 529; words of the resolution, 530; annually introduced from 1769 to 1782, and passed, 530; the history of the case not lost, 530; the resolution adopted in the Senate of Massachusetts during the late war, adverse to the celebration of our national victories, 530; expunged ten years afterward, 530; the Senate tried President Jackson a year ago, now it is itself nominally on trial before itself, but in reality before America, Europe and posterity, 530; the proceedings of this day will not be limited to the present age; they will go down to posterity, 530; the first President who has received the condemnation of the Senate for the violation of the laws and constitution which he is sworn to observe, 530; the argument of public opinion in the case of the Middlesex election, 530; extract from Wilkes' speech, 530; do. from Fox's speech, 531; an English Whig of the old school acknowledges the right of the people to instruct their representatives, 531; acknowledges the duty of Parliament to obey the voice of the people, 531; the voice of the people of the United States has been heard on this subject, 531; the resolution should be expunged because it is illegal and unjust, 531; illegal because it contains a criminal charge, 531; the first step taken in the House on an impeachment, 531; the British Parliament practise an impeachment to which our constitution is conformable, 532; the injustice of the resolution shown, 532; this point examined, 522; the resolution vague and indefinite, 532; the law should be specified and the clause of the constitution violated, 532; Giles' accusation against General Hamilton, 532; different forms in which the resolution was presented, 533; reasons of such extraordinary metamorphoses, 533; opportunity for any Senator to speak who would undertake to specify any act in which the President had violated the constitution, 533; the resolution was unwarranted by the constitution and laws, 533; subversion of the rights of defence which belong to an accused and impeachable officer, 533; of evil example, 534; speech of Mr. Macon on the vote of approbation, 534; the resolution passed at a time and under circumstances to involve the political rights and pecuniary interests of the people of the United States in serious injury and peculiar danger, 534; this condemnation of the President indissolubly connected with the cause of the bank, 534; instructions sent to the branch banks contemporaneously with the progress of the debate on the criminating resolutions, 535; extracts, 535; six positions taken, 536 no new measures to destroy the Bank, 537; the President harbored no hostile and revengeful designs against the bank, 538; not true that there was any necessity for the curtailment ordered in January, 539; no excuse or apology for doubting the rates of exchange, breaking up the exchange business in the West, and concentrating the collection of exchange on the four great commercial cities, 540; the curtailments of these exchange regulations were political and revolutionary, and connect themselves with the contemporaneous proceedings of the Senate for the condemnation of the President, 540; the case of the Western branches, 542; evidence drawn from the bank itself, 543; extracts from Mr. Biddle's letters, 543, 544; article in the National Gazette, 545; the distress of the country occasioned by the bank of the United States and the Senate of the United States, 546; history of the reduction of the deposits, 546; in 1819 the bank was unconnected with politics, 546; further proof that the Senate and the bank, and the Senate more than the bank, produced the distress during last winter, 547; two instances of the bank creating wanton pressure, 547; the resolution which it is proposed to expunge," 549.

The expunging resolution laid on the table, 549; called up on the last, 549; motion to strike out the word "expunge" and insert "rescind, reverse, and make null and void," 549; the friends of the expunging resolution astonished, 549; an expurgation of the journal would be its obliteration, 549; inconsistent with the constitutional injunction "to keep a journal," 549; the mover of the expunging resolution yields, 550; carried, 550; exultation of Mr. Webster that the word "expunge" was expunged, 550; remarks, 550; the original expunging resolution renewed, 550.

Remarks of Senator Benton, 645; "the condemnation of the President co-operative with the conspiracy of the bank to effect the most wicked scheme of mischief exhibited in modern times, 646; President Jackson has done more for the human race than the whole tribe of politicians put together, 646; his services to the country, 647; no parallel to Jackson crushing the bank except in the Roman Consul crushing Catiline, 647; further remarks, 648."

Less than three years were sufficient to express public sentiment in favor of reversal, 717; notice of the intention to bring up the resolution, 718; the resolution, 718; remarks of Senator Benton, 719; "the change in public sentiment, 720; ascertained, 720; how far should the expression of this will be conclusive of our action, 720; the terror of Jackson's administration and its effect for good or evil on the country," 721, 722, 723, 724, 725.

Meeting of democratic Senators, 727; final measures taken, 727; debate on the motion to take up the subject, 727; the speakers, 727, 728; feelings of the opposition, 728; expressions of Calhoun, 728; feeling and expressions of Clay, 729; Webster's protest against the act, 730; resolution passed, 730; the expunging done in open Senate, 730; excitement in the galleries, 731; dinner given by President Jackson, 731.

F

Farnham, Russell, founder of Colony at Astoria, 13.

Finances.—Distress of the Government in 1820, 11; economy forced upon it, 11; army reduced from 10,000 to 6,000 men, 11; naval appropriation reduced one half, 11; twenty-one millions more than double the amount required for the actual expenses of the government, 11 how expended, 11; mistake to suppose an amount necessary to be left in the Treasury as a reserve, 11.

Florida, Treaty and Cession of Texas.—Treaty of 1818, giving up Texas and acquiring Florida, 15; its denunciation, 15; action of Monroe's Cabinet, 15; treaty approved by the country, 15; points of the treaty, 15; letter of Monroe to General Jackson, 15; repugnance of the Northeast to see the aggrandizement of the Union on the South and West, 16; extent of this feeling, 16; views of Jefferson and Jackson on the cession of Texas, 16; Spain fails to ratify, 16; negotiations revived, 16; treaty ratified, 17; movement against the treaty, 17; change in the relations of Spain and Mexico, 17; treaty with Mexico, 17; three times ratified by the Senate, 17; how the territory was got back, 17; extinguished slave territory nearly, 17; Indian treaties, 18; largest territorial abolition of slavery ever effected, 18; how received at the South, 18; the inside view, 18.

FLOYD, JOHN, Representative from Virginia, 7; moves a proposition for the settlement of Columbia river, 13; his character, 13.

FOOT, SAMUEL A., resolution of inquiry relative to public lands, 130; against Van Buren as Minister to England, 215.

FORSYTH, JOHN, on the donation to the Greeks, 63; for Van Buren as Minister to England, 216; on the Compromise tariff bill, 315; Secretary of State, 477.

FRELINGHUYSEN, THEODORE, against Van Buren as Minister to England, 215.

French and Spanish Land Claims, settlement of.—State of titles in Louisiana on its transfer to the United States, 219; the treaty protected every thing that was property, 279; the question was to apply it to the land titles, 279; boards of commissions established, 279; their operation, 279; defects, 279; the act of 1832, 280; its first section, 280; its successful operation, 280.

French Indemnity.—Special communication from the President, 588; French fleet approaching the coast, 588; implying a design to overawe the government or to be ready for expected hostilities, 588; remarks of the message on the subject of an apology, 588; a private attempt to obtain a dictated apology, 588; an attempt made to get this refused apology placed on the archives of the government, 588; statement of the message, 589; the interdiction of our ports to the entry of French vessels and French products recommended, 589; nature of the treaty that had been formed, 589; stipulated for a reduction of duties on wines by our government and the payment of indemnity by France, 589; advantages to France, 590; reasons of such delay on the part of France, 590; extract relative to the French armament, 590.

Calhoun charges upon the President a design to have war with France, 591; Benton asserts that the conduct of the Senate at its last session had given to the French question its present hostile aspect, 591; remarks, 591; conduct of France insulting to us, 591; an example from French history, 591; a party in the French Chambers working to separate the President from the people of the United States, and to make him responsible for the hostile attitude of the two countries, 592; comments on the approach of the French fleet, 593; the present state of affairs charged upon the conduct of the Senate, 593; defence of Senators, 594; the Senate charged with the loss of the defence bills at the last session, 595; defence of the Senate by Webster, 596; further discussion on the time when the second session of Congress expires, 598, 599; American arming declared to be war on our side, 600; denied, 600.

British Mediation.—Message informing the Senate that Great Britain had offered her friendly mediation between the United States and France, 600; suspension of retaliatory measures recommended, 600; all points in the controversy involving the honor of the United States excepted, 600; motives of the offer, 600, 601; reflections upon this subject, 601.

French Spoliation Claim.—Ground of examined, 91; assumptions on which their payment by the United States rested, 487; liability of the United States to become paymasters themselves, in cases where failing, by war or negotiation, to obtain redress they make a treaty settlement surrendering or abandoning the claims, 487; this point examined, 487; governments not bound to push such interests to the extremity of a war, 487; ought not to go back thirty-four years and call in question the judgment of Washington's administration, 488; another instance of abandonment, 488; speech of Mr. Webster, 488; grounds of the claims, 489; speech of Mr. Wright, 489; relations between France and the United States prior to the disturbances, 489; stipulations of treaties, 490, 491; origin of the claims which formed the subject of the bill, 491; reference to acts of Congress to prove that war existed between the United States and France, 493; the treaty of 1800, 495; what object in the negotiation of 1800, 496; liability of the United States, 496; further remarks, 497, 498; propositions established, 500; the advocates of the bill concede that two positions must be established on their part to sustain it, 500, 501, 502, 503.

Speech of Mr. Webster, 505; "essentially a judicial question, 505; oldness of the claims, 505; said most of them have been bought up, 505; report of the Secretary of State presenting a general view of the history and character of these claims, 506; before the interference of our government with them they constituted just demands against France, 507; grounds upon which the claims are vested by the claimants, 507; points admitted, 508; propositions to be established, 508; were these subsisting claims against France at the time of the treaty? 508; these claims released and relinquished by the amendment of the treaty and its ratifications, 511; these claims surrendered or released by the government on national considerations, 511; further remarks," 512, 513, 514.

Speech of Mr. Benton, 514; "the whole stress of the question lies in a few simple facts, 514; assumed grounds on which the claims rest, 515; on what grounds is it maintained that the United States received a valuable consideration for these claims? 515; the case as between France and us relative to these claims, 515; our obligation under the guarantee of France, 515; the justice and validity of the claims themselves, 516; how can the American people be pressed to pay these claims when it would be unreasonable to press France herself to pay them? 516; it is said the United States have received full consideration from France for these claims, 517; exertions made by the United States on behalf of these claims, 518; what were the losses which led to these claims? 519; one of the most revolting features of this bill is its relation to the insurers, 519; what sum of money will this bill abstract from the treasury?" 520; bill passed the Senate, 521; lost in the House, 521; claim agencies and assignments should be broken up, 521; assignees and agents constitute a profession, 521.

G

GAILLARD, JOHN, Senator from South Carolina, 7; President of the Senate, 7; votes for the Missouri Compromise, 8; decease of, 77; nearly thirty years in the Senate, 77,

nine times elected president of the Senate, 77; his character as presiding officer 77.

GALLATIN, ALBEET, candidate for the Vice Presidency in 1824, 45; commissioner at Ghent, 71; negotiates for joint occupation of Oregon, 109; interview with Huskisson, 126.

GILES, WM. B., *decease of*, his peculiar talent, 683; the Charles Fox of the House, 683; his character, 683.

GILMER, GEORGE, Representative from Georgia, 7; Governor, 7; action relative to the Cherokees, 165.

Globe Newspaper, the establishment of.—An interview, 129; scheme to set aside Gen. Jackson and run Mr. Calhoun for the next President, 129; propositions, 129; communicated to General Jackson, 129; the Telegraph newspaper, 129; Francis P. Blair, 129; how brought to the notice of General Jackson, 129; establishes the *Globe newspaper*, 130; stand taken by, 182.

Gold currency, remarks of Mr. Benton upon a, 436; bills to equalize the value of gold and silver and legalizing the tender of foreign coins in either, brought forward, 469; the relative value of the two metals, 469; experience of Mexico and South America, 469; 16 to 1, 469; bill passed, 469; its good effects, 469, 470.

Government, the, its personal aspect in 1820, 7.

GRANNY WHITE, the case of, 105.

GRUNDY, FELIX, offers anti-nullification resolutions, 34.

H

HALL, THOMAS H., Representative from North Carolina, 7.

HAMAR, THOMAS L., on the admission of Arkansas, 634.

HAMILTON, General, argument for a national bank drawn from the Indian War, 2.

HAMILTON, JAMES A., acts as Secretary of State, 119.

HARDIN, BENJAMIN, Representative from Kentucky, 7.

Hartford convention.—Design of secession imputed to, 4.

HAYNE, ROBERT Y., on revision of the tariff, 99; on the duty on indigo, 99; on sales of the public lands, 132; debate with Webster, 138, 140; in reply to Webster, 140; against Van Buren as Minister to England, 215; on southern resistance to the tariff, 274.

HENDRICKS, WILLIAM, Representative from Indiana, 7.

HILL, ISAAC, on abolition petitions, 614.

HOLMES, JOHN, Senator from Maine, 7; votes for the admission of Missouri, 9; against Van Buren as Minister to England, 215.

HORSEY, OUTERBRIDGE, votes for the Missouri Compromise, 8.

House of Representatives.—Errors of De Tocqueville, 205; reputation of the work in Europe, 205; immense superiority attributed to the Senate arising from the different manner of election, 205; statement of De Tocqueville, 205; its tenor to disparage democracy—to attack the principle of popular elections, 205; advantage of extending instead of restricting the privilege of the direct vote, 206; further remarks on his statement, 206; every man of eminence has owed his first elevation to popular elections, 206; experience of England, Scotland, Ireland and Rome, of the success of a direct vote, 206; popular election the safest and wisest mode of election, 206; the difference then between the two Houses has vanished, 206; causes to account for an occasional difference, 206; statesmen not improvised, 207; time often required to carry measures, 207; instance parliamentary reform, 207; other great British measures, 207; short service the evil of the House, 207; instances of Adams and Randolph retaken up by the people when dropped from the Senate, 207; this error disparages the controlling branch of our Government. 207; the British House of Commons, 208; the Senate now occupies prominent public attention, 208.

HUNTER, WILLIAM, Senator from Rhode Island, 7.

I

Imprisonment for debt, abolition of.—Act of Congress passed to abolish all imprisonment on process issuing from the courts of the United States, 292; effect of the example, 292; report, 292; extracts, 292; "power of the creditor over the debtor in ancient Greece and Rome, 292; the history of English jurisprudence furnishes the remarkable fact that for many centuries personal liberty could not be violated for debt, 292; progress of imprisonment in England, 293; further remarks," 293; act passed, 293; effect upon the States, 293; imprisonment condemned by morality, by humanity, and by the science of political economy, 294.

Incendiary publications circulated by mail.—Moved, that so much of the President's message as related to this subject be referred to a select committee, 580; opposed, should go to the committee on post-offices and post-roads, 580; object to secure a committee that would calmly investigate the whole subject, 580; discussion relative to the committee, 580; special committee appointed, 580; bill and report, 580; dissent of various members of the committee from the sentiments of the report, 581; two parts exceptionable, 581; the nature of the Federal Government founded in "compact" and on interference of non-slave States with slavery in other States, 581; extracts from the report, 581, 582, 583; insidiousness of the report consisted in the assumption of impending danger of the abolition of slavery in all the slave States, and the necessity for extraordinary means to prevent these dire calamities, when the fact was that there was not one particle of any such danger, 584; the report foreshadows disunion, 584; in vain to expect security or protection for the slaveholding States except from themselves, and concert only wanted among them to obtain this end, 584; Calhoun recurs to secession for a new grievance, 585; remark of Clay relative to the compromise of 1833, 585; remarks of Mr. Webster, 586; examination of the features of the bill, 586; remarks of Mr. Clay on the bill, 586; the bill not only unnecessary, but as a law of dangerous, if not a doubtful authority, 586; whence did Congress derive the power to pass this law? 587.

Votes on the bill, 587; three successive tie votes, 587 yeas and nays called, 587; the Vice-President called for 587; gives the casting vote for engrossment, 587; remarks on the vote of various Senators, 587.

Indian Factory System.—Its origin, 21; objects, 21; how carried on, 21; its inside working, 21; bill to repeal passed, 21; shows how long the Indians and the Government may be cheated without knowing it, 21.

Indians, removal of.—Large tracts held by the Indians in South and Western States in 1821, 27; early policy of the Government, 27; applications to the Federal Government incessant for their removal, 27; what has become of the tribes in the older States? 27; speech of Elliot, 27; views of Jefferson, 28; action of Monroe's administration, 28; process for effecting the removal, 28; bill passed, 28; treaties ratified, 29; the system of removal begun, 29.

Creeks, removal from Georgia.—Agreement between the United States and Georgia, 58; treaty of removal concluded in 1824, 58; resisted by the nation, 59; attempts to enforce it by the State of Georgia, 59; interference of the administration, 59; new treaty negotiated, 59; objections to it in the Senate, 59; further negotiation, 59; treaty ratified, 59; an incident, 59; remarks

of Van Buren, 60; remarks of Benton, 61; others, 62, 63.

Cherokees, removal from Georgia.—Facts of the case, 624; combination of obstacles, 624; proceedings relative to, 624; treaty with the Cherokees, 624; amount of the stipulation, 624; treaty opposed in the Senate, 624; protest from the Cherokee nation, 625; proposition to reject the treaty, 625; close vote, 625; saved by free State votes, 626; involved an extension of slavery, 626; just and fraternal spirit of the free States to their southern brethren, 626.

Final removal of.—This policy when commenced, 690; completed, 690; effects, 690; extent of the removals, 690; increase of area of slave population, 691; conduct of the northern States, 691; outcry against General Jackson, 691; statements of De Tocqueville, 691; remarks, 692; amount of payments to the Indians, 692; the smaller remote tribes, 693; the Indian bureau, 693.

Indian sovereignties within States.—Indian oligarchies set up in some of the States, 163; remarks of President Jackson's message in 1829–30, 164; "the condition and ulterior destiny of the Indian tribes within States, an object of much interest, 164; has the General Government a right to sustain them in erecting an independent government within the limits of a State? 164; reference to the constitution, 164; their efforts discountenanced," 164; passsage of an act to enable their removal recommended, 164; an old policy taken hold of by party spirit, 164; proceedings in Georgia, 164; proceedings of the Cherokees, 164; action of Governor Gilmer relative to the suit of the Cherokees, 165; charge of Judge Clayton to the Grand Jury of the Indian countries, 165; address of Milner to the Foreign Missionary Society of London, 165; remarks, 166; the case of George Tassels, 166; answer of Governor Gilmer to a request to make up a case before the United States Supreme Court, 166; settlement, 166.

INGHAM, SAMUEL D., Secretary of the Treasury, 119; resigns his seat in the cabinet, 181.

Internal Improvements within the States, source of the question, 3; New York canal finished, 22; roads and canals all the vogue, 22; candidates for the Presidency spread their sails, 22; advocates of the measure, 22; two prominent subjects discussed, 22; extent of the design, 22; Monroe's veto, 22; the statement of the question, 22; constitutional point how viewed in the message, 23; the post-office and post-road grant of power, 23; the war power, 23; the power to regulate commerce, 24; to pay debts and provide for the general welfare, 24; to make laws necessary and proper, 25; to make needful rules and regulations, 26; the point on which Mr. Monroe yielded, 26; the act for surveys passed, 26; places recommended for improvement, 26; veto message of Jackson, 26; fate of the system, 27.

J

JACKSON, ANDREW, views on the cession of Texas, 16; on internal improvement, 22; candidate for the Presidency in 1824, 44; message relative to a removal of the Indians, 164; veto of Maysville road bill, 167; letter to Van Buren, relative to his agency in the rupture of the cabinet, 217; veto of the recharter of the bank, 251; elected President, 282; proclamation against South Carolina, 299; retains the bill to distribute the proceeds of the sales of the public lands, 364; veto, 365.

His administration.—His inaugural address, 119; his cabinet, 119; members of Congress, 120; Speaker, 121; recommendations of his first annual message, 121 "amendment of the constitution relative to elections of President and Vice President," 121; remarks, 122: amendment to the constitution too far removed from the people, 122; events impressively urge it, 122; not another example on earth of a free people surrendering the choice of their President, 122; exclusion of members of Congress from office recommended, 122; remarks of the message on this point, 122; the policy recommended respecting the navy, 122; instructions to Virginia Senators in 1800, 122; the army and navy as found by President Jackson, 123; recommendations relative to ship building, 123; the inutility of the Bank of the United States asserted, 123; remarks of the message, 123; manner in which they were perverted, 123; the finances, 124; other recommendations, 124.

Breaking up of the Cabinet.—Resignation of the members, 181; courtesy of the proceeding, 181; ground upon which the President placed the required resignations, 181; the new cabinet, 181; excitement in party politics, 181; attack on Mr. Crawford, 181; his answer, 181; exposure of errors of the pamphlet of Calhoun, 181; the words of Mr. Crawford, 182; change in the course of the Telegraph newspaper, 182; the stand taken by the Globe.—*See Globe newspaper.*

Twenty-second Congress, 208; the Speaker, 209; message, 210; boundary between Maine and New Brunswick referred to the King of Netherlands, 210; his opinion on the case, 210; our claims with France, 210; a treaty made, 210; differences with Spain, 210. claims against Naples, 211; our demands on the Sicilies, 211; relations with Russia, 211; effect of our treaty with Austria, 211; China and the East Indies, 212; Mexico, 212; Central America, 212; South American powers, 212; state of the finances, 213; insolvent debtors to the Government, 213; election of President and Vice President by a direct vote of the people, 213; the bank of the United States, 213.

Message after a second election, 283; wholly confined to business topics, 283; the finances, 283; extinguishment of the national debt, 283; reduction of burthens on the people, 283; protection should be limited to a few articles of indispensable necessity, 284; views on the public lands, 284; should cease to be a source of revenue soon as practicable, 284; the federal title should be extinguished in the States, 284; donations or sales at barely reimbursing prices is the wise policy of the government, 284; after a fixed day the surrender of that unsold should take place, 284; advantages of this course, 284; removal of the Indians nearly consummated, 285; obstacles to the removal of the Indian tribes, 285; the removals seized upon by party spirit, 285; Congress appealed to and refused to intervene, 285; the Supreme Court appealed to and refused the application, 285; the case of the missionaries, 285; the case of Tassells, 285; interference in the affairs of Georgia, 286; an intimation given of the insolvency of the bank and the insecurity of the public deposits, 286; this intimation received with scorn by the friends of the bank 286; conduct of the bank in relation to the payment of five millions of the three per cent. stock, 286; the attitude of South Carolina, 286; opposition to the revenue laws, 286.

Message to 23d Congress, 371; the state of the finances, 371; remarks relative to an economical administration, 371; reasons for the removal of the public deposits, 371; amendments to the constitution recommended, 372; remarks on conventions, 372.

Combination against General Jackson.—Incident in

the career of Mr. Fox, leader in the House of Commons, 400; union against Gen. Jackson, 400; their movements take a personal and vindictive character, 400; power of the bank to produce distress, 401; speakers, 401; the business of the combination divided—distress and panic the object, 401; the friends of General Jackson, 401; speech of Mr. Clay on the removal of the deposits, 402.

"In the midst of a revolution, hitherto bloodless, 402; the Judiciary has not been exempted from the prevailing rage for innovation, 402; a large proportion of the good and enlightened men of the Union are yielding to sentiments of despondency, 402; at the close of last session the power of Congress over the purse was left untouched, 403; after all the testimonies of the safety of the public money, who would have supposed that the place would have been changed? 403; by virtue of whose will, power, dictation, were the deposits removed? 404; the President has no power over the Public Treasury, 404; some of the tremendous consequences which may ensue from this high-handed measure, 405; what security have the people against the lawless conduct of the President? 405; the instance of Cæsar, 405; what is it our duty to do?" 406; remarks in reply, 406.

"The first of the resolutions a direct impeachment of the President, 406; we are trying an impeachment, 406; the Senate should consider well before they proceed further, 407; the right of the President to dismiss his secretaries, 407; two other impeachments going on at the same time, 407; the President on trial for a high crime, 407; for a misdemeanor, 408; the Secretary of the Treasury on trial, 408; the charge of being the instrument of the President, 408; people called upon to rise and drive the Goths from the capitol, 409; the bank was not the Treasury of the United States, 409; fourteenth article of the bank charter, 409; the legal existence of the Treasury brought out by the debates," 410.

Union of Clay and Calhoun against Jackson, 411; speech of Calhoun, 411; gives Clay assurance of aid, 411; the robbery of the Treasury, 411; the revolution not to go backwards, 412; entirely owing to the military and nullifying attitude of South Carolina that the compromise was passed, 412; a political coalition to act against Gen. Jackson, 412; opposition to the "usurpations" of the President, 413; contempt and scorn at the Secretary's reasons for removing the deposits, 413; the removal of Secretary Duane an abuse of power, 413; Calhoun's independence of the bank, 414; Clay disclaims all connection with the bank, 414; the list of Congressional borrowers or retainers large, 415.

Message to Congress in 1834, 477; relations with France, 477; the indemnity stipulated in the treaty has not been paid, 477; extracts, 477; question of waiting on the action of France, or of action on our part, referred to Congress, 478; United States should insist on a prompt execution, 478; consequences considered, 478; collision with France to be regretted on account of her position with regard to liberal institutions, 478; condition of the finances, 479; freedom from public debt, 479; seizure of the dividends due the United States on stock, by the bank, 479; other proceedings of the bank, 480; criminality of the bank in making the distress, 480; bank losses commenced at this period, 480; selling the stock in the bank, 480; law relative to public deposits, 480; increase of the gold currency, 481; reform in the Presidential election, 481.

Meeting of twenty-fourth Congress, 568; choice of Speaker, 569; message of the President, 569; "relations with France, 569; origin of our claims against France, 569; extent of the injuries we received, 569; an affair of uninterrupted negotiation for twenty years, except a short time when France was overwhelmed by the military power of United Europe, 569; subject brought up in the message of 1829, 570; exceptions taken to the message by the French Government, 570; the justice of the claims recognized and the amount stipulated in the treaty of 1831, 570; its ratification, 570; delays of the French Government in their action upon the subject of its fulfilment heretofore stated, 570; expectations founded on the promises of the French Government not realized, 571; consultation with Congress relative to measures for reprisal, 571; regarded as an insult by the French Government, 571; recall of their Minister and suspension of all diplomatic intercourse, 571; having vindicated the dignity of France, they next proceeded to illustrate her justice, 571; bill passed in the Chamber of Deputies to make the appropriations necessary to carry into effect the treaty, 571; a stipulation that the money should not be paid until it was ascertained that no steps had been authorized by Congress of a hostile character towards France, 571; this point ascertained, 572; subsequently the bill amended to require a satisfactory explanation of the President's message," 572; the apology repulsed by the President as a stain on the national character, 572; injurious effects of the loss of the fortification bill in the previous Congress, 572; the humane policy which governed the United States in the removal of the Indians, 573; the revival of the gold currency and its influence on the industry of the country, 573; increase of specie in the country, 573; the transportation of the mails by railroad and the extortion of the companies, 574; the transmission by mail into the slave States of incendiary publications tending to excite servile insurrection, 574; reform in the mode of electing the two first officers of the Republic, 575.

Foreign Diplomacy.—Most alarm felt from this part of his administration by the opponents of his election, 601; no part more successful, beneficial, and honorable, 601.

The British West India trade recovered, 602.

The French Indemnity treaty, 602; efforts previously for redress, 602; the message, 602; Rives sent as Minister, 602; the treaty, 602; further proceedings, 603.

The Danish treaty of indemnity for spoliations on American commerce, 603; consisted of illegal seizures and confiscations of American vessels in Danish ports during the time of the British orders in Council and the French decrees, 603; negotiations of J. Q. Adams' administration, 603; subsequent success of the negotiations, 603.

Neapolitan indemnity treaty for spoliations on American commerce, 603; previous efforts to obtain indemnity, 603; cause of delay, 604; embarrassments, 604; success, 604.

Spanish indemnity treaty for causes of complaint since 1819, 604; Spanish blockades of ports of South American colonies, 604; state of negotiations, 604; success, 605.

Russian commercial treaty, none before negotiated, 605; many previous efforts, 605; every thing else granted but a commercial treaty, 605; final success of negotiations, 606.

Portuguese indemnity for seizures during the blockade of Terceira, 606; treaty made, 606; inability of Portugal to pay, 606; time extended and payment made, 606.

Treaty with the Ottoman Empire made in 1831, 606; first treaty with that power, 606; still further treaty in relation to our commerce needed, 607; stipulations, 607; success, 607.

Renewal of the treaty with Morocco, 608.
Treaty with Siam, 608.
Treaty with Sultan of Muscat, 608.
Last message, 684; recapitulation of the auspicious state of things at home and abroad, 684; the deposit act, 684; the distribution scheme, 685; effects, 685; issuance of the Treasury circular, 685; attack upon the circular in Congress, 686; Seminole hostilities in Florida, 686; the stock in the Bank of the United States, 687; the delay of appropriations, 688; mail contracts with railroads, 688; supervision over the Indian tribes, 689; the mode of the Presidential election, 689.
Farewell address of President Jackson, 732; on disunion, 732; his apprehensions, 733.
Conclusion of his administration, 733; remarks and reflections, 733, 734; appearance at the inauguration of Van Buren, 735; his reception, 735; his retirement, 735; his decease, 736; his first appearance to the writer, 736; first interview, 736; intercourse, 736; Mrs. Jackson, 737, 739; his character, 737, 738; elected Major-General in Tennessee, 738; nephews, 739.

Jackson and Calhoun, rupture between.—Pamphlet of Mr. Calhoun relative to, 167; its title, 167; its contents, 167; the case as it was made out in the pamphlet an intrigue on the part of Van Buren to supplant a rival, 168; this case confronted by Jackson, 168; his previous opinion of Calhoun, 168; the reply of Jackson never published heretofore, 168; how it came into the possession of Benton, 168; letter of Kendall, 168; contents of Jackson's exposition, 168; justification of himself under the law of nations and the treaty with Spain for taking military possession of Florida, 168; do. under the orders of Monroe and Calhoun as Secretary of War, 168; a statement of Mr. Calhoun's conduct towards him in all that affair of the Seminole War, &c., 169; "introduction, 169; extracts from orders, 169; letter of Calhoun, 169; Jackson's letter to Monroe, 169; manner of the reception of the letter, 170; reply by John Rhea, 170; circumstances under which Jackson entered Florida, 170; conduct of the Spanish authorities, 171; the impresssions under which Jackson acted, 171; his dispatch to the Secretary of War, 172; acted within the letter and spirit of his orders, and in accordance with the secret understanding of the Government, in taking possession of St. Marks and Pensacola, 172; letters to the Secretary of War, 172; no replies of disapprobation, 172; statements of a Georgia journal, 173; no reason to doubt Mr. Calhoun's approval, 173; further evidence, 173; letter of Col. A. P. Hayne, 173; his impressions derived from Mr. Calhoun, 174; informed that Calhoun was the instigator of the attacks upon him, 174; and that Crawford was unjustly blamed, 174; statement of Mr. Cobb, 174; inquiries of Col. Hamilton of Mr. Calhoun, 174; private letter of Gen. Jackson to Mr. Calhoun, 174; Calhoun's reply, 175; recapitulation, 175; how the suspicions of Gen. Jackson were awakened against Mr. Calhoun, 175; statement of Mr. T. Ringold, 175; the statement of Mr. Crawford obtained, 175; inquiry relative to its correctness, of Calhoun, 175; his reply, 175; *note*, 175; united testimony of the Cabinet, 176; toast of Calhoun by Gen. Jackson, 177; the report on the resolutions of censure in the House, 177; its bitterness due to Mr. Calhoun, 177; proceedings of Mr. Leacock, 177; Calhoun's secret communications to him, 178; report of Mr. Leacock, 178; a darker shade added, 178; success of Calhoun's management thus far, 179; the mask worn by Mr. Calhoun, 179; further statements," 180; calamitous events followed this rupture, 180; Crawford's words relative to the production of the private letter of Jackson to Monroe in the Cabinet meeting, 180.

Jackson, attempted assassination of.—The President and Cabinet attend the funeral of William R. Davis, 521; circumstances of the attempt to shoot the President 521; the assailant knocked down and secured, 521; the prisoner, 521; the pistols, 521; prisoner examined by physicians relative to the soundness of his mind, 522; report of physicians, 522; a diseased mind acted upon by a general outcry against a public man, 523; not tried, but treated as insane, 524.

Jackson, President, Senatorial Condemnation of.—Clay and Calhoun the leading spirits in this measure, 423; the resolution passed, 423; irrelevance of the resolution to any right or duty of the Senate, 423; its effect, 423; composure of President Jackson, 424; course of his friends, 424; mischief of the distress, 424; the Protest of the President, 425; its contents, 425; extracts, 425; "it wants both the form and substance of a legislative measure, 425; the whole phraseology judicial, 425; its charges, 425; in substance an impeachment of the President, 425; this impeachment originated in the Senate without the aid or concurrence of the House, 426; Senators from three States voted contrary to the sense of their legislatures, 426; words of the Protest, 427; an appeal to his private history for the patriotism and integrity of his life," 427; the excitement which ensued upon its reading in the Senate, 427.
Notice of the Expunging resolution given, 428; remarks, 428; "instance of the House of Commons, 428; the question brought before the American people, 428; motion to reject the President's message, is the question, 429; the charges of the resolution, 429; speeches in support of the resolution, 430; three characters in which the Senate can act, 430; one of the most difficult and delicate tasks in the convention was to select a court for the trial of impeachments, 430; it is an object not more to be desired, than difficult to be obtained, 431; further remarks, 431; the Star Chamber Court, 432; what occasion has the Senate, sitting as a court of impeachment, for the power of execution," 432; motion carried, 432; reasons for the Senate's refusal, 433.

Jefferson, Thomas, rejects the treaty of 1807, 1; his idea of a commercial communication with Asia, 14; his interview with the traveller Ledyard, 14; seeks discovery of the Columbia river, 14; projects the expedition of Lewis and Clarke, 14; views on the cession of Texas, 16; letter to Dr. Breckenridge, 16; as a statesman, 28; remarks on future French affairs, 31; remarks on the road from Georgia to New Orleans, 43; decease of, 87; character, 87, 88; his connection with the doctrine of nullification, 148.

Jessup, Gen., second to Mr. Clay in the duel with Randolph, 70; his statement, 70.

Johnny, the servant of Randolph, anxiety for his master at the duel between Randolph and Clay, 75.

Johnson, Charles, on reference of the Bank memorial to a select committee, 235.

Johnson, Henry, Senator from Louisiana, 7; governor, 7.

Johnson, Richard M., Senator from Kentucky, 7; votes for the Missouri Compromise, 8; Judge of Supreme Court, 8. On committee of bank investigation, 241; reports on imprisonment for debt, 292.

Joint Committee of both Houses on the admission of Missouri, 9.

Jones, Francis, Representative from Tennessee, 7.

K

Kendall, Amos, letter to Calhoun, 168; Postmaster General, 181.

King, Rufus, Senator from New York, 7; appointed Minister

to England, 57; long service in the Government, 57; his manners, 57; dress, 57; courtesy between him and Van Buren, 57; his suggestions to Senator Benton, 58; his statement of the sentiment of the revolutionary period, 58.

KING, WILLIAM R., Senator from Alabama, 7, votes for the Missouri Compromise, 8; on the Expunging resolutions of Alabama, 525, 526, 527.

KING, JOHN P., on abolition petitions, 613, 617; on the independence of Texas, 666.

KREMER, GEORGE, avowed author of an anonymous publication against Clay; 71.

L

LAFAYETTE, *his visit.*—An absence of forty years, 29; manner of his reception, 29; address of Speaker Clay, 30; Lafayette in the presence of posterity, 30; appropriation of money and land to Lafayette, 30; the grants opposed 30; reasons, 30; advocated, 31; his sacrifices, 31; views of Jefferson, 31; return of Lafayette to France, 31.

LANMAN, JAMES, *the case of.*—On the expiration of the Senatorial term of Lanman, the Legislature of Connecticut failing to elect, the governor appointed him, 56· debate on the validity of the appointment, 56; not a case in which a governor can fill a vacancy, the vacancy foreseen, not *happened*, 56· precedents reported to the Senate, 56; unsatisfactory, 56; motion to admit, rejected, 56.

LAWRENCE, RICHARD, attempts to assassinate President Jackson, 521.

LEAKE, WALTER, votes for the Missouri Compromise, 8.

LEDYARD, JOHN, attempts the discovery of the Columbia river, 14.

LETCHER, ROBERT P., moves the compromise tariff bill, 809.

LEWIS, of North Carolina, on the admission of Arkansas, 632.

LIVINGSTON, EDWARD, Secretary of State, 181.

LLOYD, EDWARD, Senator from Maryland, 7; governor, 7; votes for the Missouri Compromise, 8.

LOGAN, WILLIAM, votes for the Missouri Compromise, 8.

LOWNDES, WILLIAM, Representative from South Carolina, 7; weight of his opinions, 8; on the committee to whom was referred the application of Missouri, 9; decease, 18; his character, 18.

LOWRIE, WALTER, votes for the Missouri, Compromise, 8.

M

MACAULAY, his description of removals from office, 162.

MACON, NATHANIEL, Senator from North Carolina, 7; votes for the Missouri Compromise, 8; opposes the grants to Lafayette, 30; his vote for Vice-President in 1824, 45; answer relative to the authorship of the report on the Panama mission, 68.

Retirement of, 114; his temperament, 114; fixed the time for his retirement long before, 114; his resignation, 114; his death, 114; his character, 114; sketch of his life, 115; enters the army, 115; refuses to leave the camp for the legislative assembly of his native State, 115; the battle of Guilford, 115; Macon's civil life, 116; his political principles, 116; disregard of wealth, 117; his friendships, 117; his executor, 117; codicil to his will, 117; his charity, 118; his dress, 118; his disinterestedness, 118; his simplicity, 118; letter on the Military Academy, 182; his character, 534.

MADISON, JAMES, yields in favor of the second bank, 3; on the regulation of commerce, 156; his veto of an internal improvement bill, 167; his letter on slavery agitation, 609; remarks, 623; decease of—time of his death, 678; remarks of Dr. Witherspoon, 678; his talent, 677; his writings, 679; characteristics, 679.

MCGUIRE, J. C., publishes a quarto volume of Madison' letters, 149.

MANGUM, WILLIE P., on the branch Mints, 550.

MARCY, WILLIAM L., for Van Buren as Minister to England, 216,

MARSHALL, JOHN, Chief Justice, 7; administers the oath of office to Jackson, 119; decease of Chief Justice, 681 his character, 681; his speech in the case of Jonathan Robbins, 681.

MCDUFFIE, GEORGE, moves amendment to the constitution, 37; expresses the views of the South on the revised tariff, 100; on revision of the tariff, 100; on the Committee of Bank Investigation, 241.

MCINTOSH, WILLIAM, Chief of Creek Indians, 58; negotiates a treaty, 58.

MCLANE, LOUIS, Representative from Delaware, 7; sent Minister to England, 127; Secretary of the Treasury, 181.

MCLEAN, JOHN, Postmaster General, 7; Postmaster-General, 58; appointed Justice of the Supreme Court, 120.

MCKINNEY, THOMAS L., superintendent of the Indian factory system, 21.

MEIGS, R. J., coadjutor with Clay on the Missouri question, 10.

Memorial of the Bank Directors to Congress relative to the removal of the public deposits, 379; of the rejected Government Directors of the Bank to Congress, 389.

MERCER, CHARLES FENTON, Representative from Virginia, 7.

Message on the South Carolina proceedings, 303; relative to the distribution of the proceeds of the sale of public lands, 365; to twenty-third Congress, 369; on the renomination of the Bank Directors, 386.

METCALFE, THOMAS, Representative from Kentucky, 7; governor, 7.

Michigan, admission of. *See Arkansas.*

Military Academy.—Numerous desertions in the army, 182; difficulty to find a remedy for the evil, 182; letter from Mr. Macon, 182; not a government in the world so unfriendly to the rights of the people as ours since the establishment of the West Point Institution, 182; officers rise from the ranks in all countries of Europe, 183; returns to Parliament, 183; how is it in our service? 183; difficulty of obtaining a commission for a citizen in the regular regiments, 183; case of Hermann Thorn, 183; admitted to service in Austria, 183; case of Kit Carson, 183; rejected because he did not come through the West Point gate, 183; this rule of appointment become the law of the land, 183; popular opposition to the institution, 184; it is said Washington was the founder of the institution, 184; the institution of his day a very different affair, 184; explained, 184; all was right until 1812, 184; extract from the act of 1812, 184; the deception of the clause, 184; other deceptions which follow 185; this establishment is mainly a school for the gratuitous education of those who have influence to get there, 184; gratuitous instruction to the children of the living is a vicious principle, 185; vital objections to the institution, 185; a monopoly of the appointments how effected, 185; the President and the academy are the real appointing power, and the Senate an office for the registration of appointments, 186; act of 1812 rests its constitutionality on fictions, 186; the title of the act fictitious, 186; its title, 186; our academy an imitation of European military schools, 186; the remedy for these evils is to repeal the act of 1812, 186.

Attempted Inquiry into.—Organized under the act of 1812 638; movements against early commenced, 638; committee appointed, 638; report 638; no attention given to it, 638; other motions, 638; debate, 639; a monopoly for the gratuitous education of the sons of the

rich and influencial, 639; some rule should apply to the army as applies to members of Congress, 640; further efforts to obtain an investigation, 640; attack on the appropriation resorted to, 641; remarks of Franklin Pierce, 641; "grounds of opposition, 641; why has this investigation been resisted? 641; from the middling interest comes the most efficient support in trying periods, 642; exclusiveness of the institution, 642; the military academy not calculated to make the army effective, 642; the institution in the times of Washington, &c., and the institution as it is now, 643; gratuitous education in Great Britain examined, 644; further remarks," 645.

A clause in the appropriation bill for the purchase of forty horses, &c., erection of a building, a riding house in bad weather, 712; struck out, 712; opposition to its restoration, 712, 713; further debate, 714.

Missouri, admission of.—Exciting question of session of Congress of 1820–'21, 8; the state admitted without restriction, 8; the compromise, 8; work of the South, 8; unanimity of the President's cabinet, 8; unanimity of the Senate on the compromise, 8; its constitutionality called in question, 8; Senators voting for it, 8; vote in the House, 8; the increase of slave States avowed to be a question of political power between the two sections of the Union, 8; provision in the Missouri Constitution forbidding Legislative interference, 8; clause authorizing the prohibition of the emigration of free people of color, 9; its treatment by Congress, 9; the real point of objection, 9; application for admission presented and referred, 9; report of committee, 9; resolution rejected, 9; its fate in the Senate, 9; House reject the resolution of the Senate, 9; joint committee ordered and appointed in both Houses, 9; report, 9; adopted in the House, 9; in the Senate, 10; compliance of the General Assembly of Missouri, 10; defeat of the attempt to restrict a State from having slaves if she chose, 10; the real struggle, object of, 10; the objectionable clause, how since regarded, 10; excitement of the occasion, 10; a federal movement, 10; sentiments of the northern democracy, 10; a movement for the balance of power, 10.

Missouri resolutions.—Not now discussed, 360; the old confederation was a league with a legislature acting on sovereignties, 361; the Federalist on the defects of the old system, 361; on the certain destruction of the Union when the sword is once drawn between the members, 361; advantage of working if the laws operate on citizens and not on States, 361.

Missouri Question, extension of.—Object to extend the boundary on the Missouri river, 626; difficulties, 626; threefold, 626; a bill for the alteration of the compromise line and the extension of the boundary reported, 627; passed both Houses, 627; this was the answer which northern members gave to the imputed design of abolishing slavery, 627.

MITCHELL, GEORGE E., on reference of the bank memorial, to a select committee, 234.

MONROE, JAMES, negotiates the treaty of 1807, 1; efforts for the declaration of war in 1812, 6; President, 7; letter showing the unanimity of his cabinet on the Missouri question, 8; his letters to Jackson on the cession of Texas, 15; ditto to Jefferson, 16; cause of these letters, 17; veto on internal improvement bill, 22; veto of Cumberland road bill, 167; decease of, his place in history, 679; his character, 679; genius, 679; discretion, 679; foundation of his political career, 680; remark of Jefferson, 680; his career, 680.

MONROE doctrine, 67.

MOORE, GABRIEL, anecdote respecting the rejection of Van Buren as Minister to England, 215; against Van Buren as Minister to England, 215.

MORRIS, THOMAS, on abolition petitions, 612.

N

New Mexico, internal trade with.—All foreign ingress cut off until 1821, 41; intercourse between Missouri and the "Western Internal Provinces," 41; a branch of interior commerce, 41; a bill brought into the Senate to open road and to afford protection against the savages, 41 statement of facts relative to the trade, 41; precedents for the construction of a road, 42; remarks of Mr. Jefferson on the road from Georgia to New Orleans, 43; the foreign part of the road the point of difficulty, 43; moved to strike out the extra territorial part of the national highway, 43; views of Senators, 43, 44; bill passed, 44; road to New Mexico built under Adams' administration, 44.

NILES, JOHN M., on the independence of Texas, 668.

NOBLE, JAMES, votes for the Missouri Compromise, 8.

Nullification.—Event of its origin, 95; the assumed right of a State to annul an act of Congress, 138; new turn in the debate, 138; allusions to the conduct of New England in 1812, 138; meetings in South Carolina on the Tariff, 138; resolves passed, 138; their defence, 138; the doctrine summed up, 138; counter explanation, 139; the Virginia resolution, 139; how the South Carolina doctrine would have operated in New England, 139; the doctrine has no foundation in the constitution or in Virginia resolutions, 139; "the character of the government, 139; supremacy of the constitution and laws, 140;" interpretation of the Virginia resolutions disputed, 140; remarks, 140; Hartford Convention, 140; pledge of forcible resistance to any attempt to enforce unconstitutional laws, 140; remarks, 141; Webster's peroration, 141; remarks of Benton, 142; his slowness to believe in any design to subvert the Union, 142.

Anniversary of Jefferson's birth-day, 148; a subscription dinner, 148; the guests, 148; the regular toasts, 148; conversation excited by them, 148; toast of the President, 148; toast of Calhoun, 148; remarks relative to Mr. Jefferson, 148; his vindication, 148; resolves of Virginia, 149.

Ordinance in South Carolina.—The fate of the American system was sealed by the elections of 1832, 297; the course of South Carolina, 297; words of the ordinance, 297, 298; it placed the State in the attitude of open and forcible resistance to the laws of the United States to take effect in the February following, 298; officially communicated to the President, 298; his oath of office, 298.

Proclamation against nullification.—Proceedings of the South Carolina convention stated, 299; the ordinance founded not on the indefeasible right of resisting acts which are plainly unconstitutional and too oppressive to be endured, 299; but on the position that a State may declare the acts of Congress void and prohibit their execution, 300; two appeals from an unconstitutional act, 300; words of the social compact, 300; if this doctrine had been established at an early day the Union would have been dissolved in its infancy, 300; our constitutional history shows it would have been repudiated if proposed for a feature of our Government, 300; the constitution declares, &c., 301; a law repealed by a small majority of the voters of a single State, 301; the constitution forms a government, not a league, 301; address to the members of the convention, 302.

Message on the South Carolina proceedings.—No-

tice in the annual message, 303; continuation and aggravation of the proceedings, 303; special message, 303; "ordinance transmitted by the Governor of South Carolina, 303; hope indulged that by explaining the recommendations proposed to Congress, the authorities of South Carolina might recede, 303; hence proclamation issued, 303; the reasonable expectations not realized, 303; neither the recommendations of the Executive nor the disposition manifested by Congress, nor the unequivocal expression of public opinion, have produced any relaxation in the measures of opposition, 303; the State authorities actively organizing their military resources, 304; proclamation of the Governor has openly defied the authority of the Executive of the Union, 304; determination of the authorities of South Carolina, 304; acts on the part of South Carolina, 304, 305; no sufficient cause for such proceedings on the part of South Carolina, 306; she still claims to be a component part of the Union, 306; the duty of the Executive, 307; recommendations of the President, 307; importance of the crisis," 307.

Deep feeling of discontent in South Carolina operated upon by politicians, 308; this feeling just and reasonable, and operated upon by politicians for personal and ambitious objects, 308; twofold aspect of his proclamation and message, 308; one of relief and justice in reducing the revenue; and the other, firm and mild in enforcing the laws against offenders, 308; two classes of discontented—the honest and the politicians, 308; bills proposed in Congress, 308.

Revenue Collection or Force Bill.—Bill to secure the execution of certain laws in South Carolina, 330; remarks, 330; "contains no novel principle, 330; provision for removal of the Custom House, 330; legislation necessary, 330; secession on one hand, and nullification on the other, 331; state of affairs in South Carolina, 331; the bill confers on the President the power of closing old ports of entry and opening new ones, 331; a prominent cause which led to the revolution, 331; empowered to employ the land and naval forces to put down all abettors, 332; no ambiguity about this measure, 332; the President is charged by the constitution with the execution of the laws, 332; the President's measure, 332; the resemblance between this bill and the Boston Port bill, 333; the war is waged against the measures of the administration," 333; the support of Mr. Webster, 333.

Nullification resolutions.—Resolutions on the powers of the government introduced into the Senate, 334; counter-resolutions offered, 334; source whence Mr. Calhoun obtained the seminal idea of nullification as a remedy in a government, 335; Virginia resolution of, 98, 99; the essential idea derived from the Roman tribunitian veto, 335; considered a cure for all the disorders of a Roman State, 335; remarks, 335; "the Roman system, 335; operation of the Roman veto, 335; the right of a State to interfere, 336; governments of several States might be cited as an argument against this view, 336; the tendency to conflict in this action," 336; Calhoun's opinion of the defects of our form of government, and the remedy for these defects, 337; the defect of an unchecked authority of the majority, 337; the remedy an authority in the minority to check that majority and to secede, 337; example of Jewish history, 337; its squint to the Virginia resolutions, 337; circumstances under which this remedy contended for, 337; object to create or find this remedy in our system, 337; nullification, resistance, secession, found by Calhoun in the Virginia resolutions, 337; all that was intended by the Virginia resolutions, being merely an appeal to public opinion, 337; debate, 337; "what was the conduct of Virginia in the memorable era of 98 and 99, 338; her real intentions and policy were proved not by declarations and speeches merely, but by facts, 338; the constitution does not provide for events which must be preceded by its own distraction, 338; secession and nullification revolutionary, 338; its tendency is to break up the constitution as to all the other States, 339; it strikes a deadly blow at the vital principle of the whole Union, 339; it arrests the power of the law, absolves the citizen from duty, and elevates another authority to supreme command, 339; the laws must be repealed throughout the whole Union, or executed in Carolina as well as elsewhere, 339.

"Nature of our federal government, 339; a union in contradistinction to a league, 339; it is not a compact or confederacy between the people of the several States in their sovereign capacities, 339; no State authority has power to dissolve these relations, 340; the constitution, acts of Congress, &c., the supreme law, 340; an attempt of a State at nullification a direct usurpation of the just powers of the federal government," 340; some other cause than the alleged one at the bottom of this desire of secession, 340; ambitious and personal proceedings intimated as involved in the proceedings of South Carolina, 340; expression of Calhoun, 340; a contest between power and liberty, 341; the freedom and the slave property of the South involved, 341; exclusion of patriotic men of the South from the Presidency, 341; contradicted by all history of our national elections, 341; protective tariff not the sole or main cause of the South Carolina discontent, 341; remarks on this point, 341; "another subject connected with this which will prevent the return of peace and quiet, 341; the force bill a practical assertion of one theory of the government against another, 341; the bill cannot be acquiesced in, unless the South is dead to the sense of liberty," 341; these positions not sustained by Southern sentiment, 342—*See Tariff, Reduction of duties.*

O

Ordinance of 1787.—Authorship claimed for Nathan Dane, 133; claimed for Jefferson, 133; history of the case, 133; its ultimate passage the work of the South, 133; extracts from the Journal of Congress, 134; remarks on the claim for Dane of authorship, 134; "origin of the measure, 134; an attempt to transfer the honor to the South, 135; proposed a second time," 135; statements compared with facts, 135, 136.

Oregon Territory.—Proposition for the settlement of, first made at the session of 1820-21, 13; causes that led to it, 13; committee moved, 13; carried, 13; the committee, 13; report, 13; proceedings in the House, 13; consequences of neglect by the Government, 13; advantages from its settlement, 13; historical facts, 14.

Joint occupation of.—Astoria captured during the war of 1812, 109; not restored under the treaty of Ghent, 109; convention for joint occupation concluded at London, 109; words of the convention, 109; article written by Benton on the subject, 109; our traders driven out of the country, 110; other effects of the joint occupation, 110; resolutions against the ratification of the subsequent treaty relative to continuance of the joint occupation, 111.

Otis, Harrison Gray, Senator from Massachusetts, 7.

P

PALMER, WILLIAM A., votes for the Missouri Compromise, 8.

Panama Mission.—A master subject in its day, 65; gave rise to grave questions, 65; designed as a popular movement to turn the tide running against Adams, 65; the Congress at Panama, 65; debate in the Senate on the nomination of ministers, 65; invited by the South American States to send deputies, 65; motion to debate the question with open doors, 65; reference to the President, 65; his answer, 65; indignation of the Senate, 66; nominations confirmed, 66; patronage distributed to advocates of the measure, 66; the basis of the agreement for the Congress, the existing state of war between all the new States and the mother country, 66; its object, 66; relations of the United States, 66; message of the President relative to objects of the Congress, 67; the Monroe doctrine, 67; extract from Adams' message respecting it, 67; entirely confined to our own borders, 67; other objects—advancement of religious liberty, 67; proofs of our good will, 67; reference of the message, 67; adverse report, 67; expressive of the democratic doctrines of the day, 67; its general principle that of good-will and friendship, but no entangling alliances, 68; remarks of committee on religious freedom, 68; their views on the Monroe doctrine, 68; our present unconnected and friendly position regarded as most beneficial to the republics, 68; the advantages of friendly relations without entangling alliances, 69; right of the President to institute the mission, 69; relations with Hayti, on what principle established, 69; excitement produced by the proposed mission, 69.

Paper read to the cabinet by General Jackson relative to the removal of the public deposits, 376.

Patronage, Executive, reduction of.—Committee appointed to report on the expediency of reducing, 80; the committee, 80; report, 80; the six bills reported, 80; extract from the report, 80; "grounds of the committee's opinion, 80; multiply the guards against the abuse of power, 81; the extent of patronage," 81; subsequent increase of patronage, 81; remarks on the bills reported, 81, 82.

PARROTT, JOHN F., votes for the Missouri Compromise, 8.

PIERCE, FRANKLIN, on abolition petitions, 615.

PINCKNEY, CHARLES, Representative from South Carolina, 7.

PINKNEY, WILLIAM, Senator from Maryland, 7; negotiates the treaty of 1807, 1; votes for the Missouri Compromise, 8; decease, 19; rank as an orator, 19; speeches, 19; on the Missouri controversy, 19; abilities, 20; manner in which Randolph announces his death, 20; character, 20.

PLEASANTS, JAMES, Senator from Virginia, 7; governor 7; votes for the Missouri Compromise, 8.

POINDEXTER, GEORGE, against Van Buren as Minister to England, 215; on the protest of General Jackson, 427.

POLK, JAMES K., on the non-payment of the three per cents., 289; on continuing the deposits in the bank, 289; chosen Speaker of the House, 569.

Presidential election of 1824.—The candidates, 44; how brought forward, 44; number of electoral votes, 44; vote for each, 44; candidates for the Vice Presidency, 45; vote, 45.

In the House.—The theory and practical working of the constitution in the election of President and Vice-President, 46; first election in the House that of Jefferson and Burr, 46; ballotings, 47; effect on the constitution, 47; second election in the House that of 1824, 47; proceedings, 47; the democratic principle finally victorious, 47; conduct of certain individuals, 48; Clay expresses to Benton his intention to vote for Adams before the election, 48; letter of Clay to Benton, 48; evidences of Clay's declaration, 48; this election put an end to caucus nominations by members of Congress, 49; a different mode of concentrating public opinion adopted 49; its degeneration, 49; an anomalous body where the election is now virtually made, 49; this destructive to the rights and sovereignty of the people, 49; the remedy, 49.

Presidential election of 1828.—The candidates, 111; result 111; vote of the free States for the slave-holding candidates, 111; election of Jackson a triumph of democratic principle, 111; errors of Mons. de Tocqueville, 112; charge of violent temper against Jackson, 112; "mediocre talent and no capacity to govern," 112; "opposed by a majority of enlightened classes," 113; "raised to the Presidency solely by the recollection of the victory of New Orleans," 113. *See page* 282.

Presidential election of 1836.—The candidates, 683; Vice-President elected by the Senate, 683; details, 683, 684.

PRESTON, WILLIAM C., on French affairs, 594.

Protection to American Industry, origin of the question, 8.

Protective System.—The periodical season for its discussion, 265; the session most prolific of party topics and party contests of any ever known, 266; the reason, 266; the subjects, 266; the bank and tariff two leading measures, 266; proposal of the President's message, 266; the proposition of Mr. Clay, 266; the seven years before the Tariff and the seven years after, 266; the one, calamity; the other, prosperity, 266; remarks, 266; the seven years of calamity immediately followed the establishment of the bank, 266; protection an incident before 1816, afterwards an object, 267; origin and progress of the protective policy, 267.

"It began on the 4th of July, 1789. The second act on the statute book, 267; prosperity consequent on the French revolution, 267; state of things after the peace in 1815, 267; subject again brought up in 1820, 267; summary of the policy," 267.

Other speakers in favor of the policy, 268; those against it, 268; bearing of the question on the harmony and the stability of the Union, 268.

A crisis arrived, 268; dissatisfaction of all the South, 268; objects of the Revolution, 268; manufacturers should be supported incidentally, 268.

"This system an overruling necessity, 269; the danger to its existence lies in the abandonment, and not in the continuance of the American system, 269; great excitement in South Carolina, 269; the Union necessary to the whole and to all its parts, 269; the majority must govern, 269; can it be believed that two-thirds of the people would consent to the destruction of a policy believed to be indispensably necessary to their prosperity?" 269.

An appalling picture dissolution of the Union presented on either hand, 270; former designs of bringing Jackson forward for the Presidency, 270; views entertained in South Carolina, 270; views of the Democratic party, 270; "cannot feel indifferent to the sufferings of any portion of the American people, 270; what is the cause of Southern distress? 271; other causes which exist," 271; the levy and expenditure of the federal government the cause of Southern decadence, 271; exportation of American manufactures, 272; this fact urged to show the excellence of American fabrics, and that they are worthy of protection, 272; also urged to show their independence of protection, 272; "American cottons now traverse the one-half of the circumference of the globe, 272; effect of these duties to create monopolies at home, 272; the Custom House returns," 272; the

prosperity attributed to the Tariffs of 1824 and 1828, 272; real cause of the revived prosperity, 273; remarks, 273; Clay's remarks on his own falling powers and advanced age, 273; compliments on his remarks, 273; sparring between Gen. Smith and Mr. Clay on the age of the latter, 273, 274; the seriousness of Southern resistance to the Tariff, 274; an appeal to all to meet the South in a spirit of conciliation, 274.

Protest of Gen. Jackson on the vote of censure in the Senate, 425.

Public distress.—From the moment of the removal of the deposits, the plan of the bank was to force their return, and with it a renewal of its charter, by operating on the business of the country and the alarms of the people, 415; course to be pursued, 415; first step to get up distress meetings, 415; memorial sent to Congress, 415; speeches on their presentation, 415; remarks of Mr. Tyler on presenting a memorial from Virginia, 416; do. of Mr. Robbins on presenting a memorial, 416; do. of Mr. Webster on presenting a memorial, 417, 418, 419; do. of Mr. Southard on presenting a memorial, 417; do. of Mr. Clay on presenting a memorial, 418; do. of Mr. Kent on presenting a memorial, 418; Clay's apostrophe to the Vice President, charging him with a message of prayer and supplication to the President, 420; the Vice President takes a pinch of Mr. Clay's snuff, 420; resolution of a public meeting relative to the message to be conveyed by the Vice President, 420.

All this is a repetition of what was heard in 1811, 421; extracts from Debates of Congress, 421; the two distresses proved the same thing, 421; agitation and commotion in the large cities, 421; gaining a municipal election in New York, 421; extracts relative to everyday occurrences, 421; amounts of money expended, 422.

Report of the Secretary of the Treasury on the Finances, 462; call made at the height of the panic, 462; showed an increase in every branch of the revenue, instead of a decline, 462; test of the prosperity of the United States, 462; the distress confined to the victims of the Bank, or fictitious and artificial, 462; attempt to quietly put the report aside, 462; preparation made to defeat this move, 462; the entire reading demanded, 462; speech of Mr. Benton on its conclusion, 462; the speech, 462; "assertions and predictions under which the call had been made, 462; a report to make the patriot's heart rejoice, 463; it had been called for to be given to the people, and the people should have it, 463; the statements of the report examined, 463; evidence of commercial prosperity, 464; increased imports, increased shipping, increased sales of public lands, 464; it has been said that trade is paralyzed, 465; the odium of all the distress falls on the bank, 465; the prosperity of the country, 466; recapitulation of the evidences, 467; the alarm is over, the people are tired of it, 467; the spectre of distress could never be made to cross the Mississippi, 467; the bank is now a nuisance," 468; report laid on the table and printed, 469. *See Tariff.*

Public Land Debtors.—The credit system then prevalled, 11; debt for lands sold to the Government, 12; situation of the public land debtors, 12; system on which the lands were sold, 12; subject referred to in the President's message, 12; the measure of relief devised, 12; the cash system and reduced price adopted, 12; the pre-emption right introduced, 12; opposed, 12; carried, 12; the graduation principle pressed, 12.

Public Lands.—Burke's bill for the sale of the Crown lands presented in the British House of Commons, 102; its application to this country, 102; his remarks, 102; sales of land by a government to its citizens a false policy 102; movements to obtain a graduation of price, 103 recommendation of Jackson's message, 103; the revenue derived from the sale of lands a trifle compared with the revenue derivable from the same lands through settlement and cultivation, 103; sale of land brings no population, cultivation produces population, 103; remarks in favor of donation of lands, 103; example of the Atlantic States in favor of donations, 104; remarks against the reservation of saline and mineral lands, 104; these lands sold in Missouri, 105; system of renting mines abolished, 105; case of "Granny White," 105; the example of all nations in favor of giving land, 106; proclamation of the King of Persia in 1823, 106; Western States sufferers by this land policy, 106; change in public sentiment, 107.

A proposition to inquire into the expediency of limiting the sales of land to those in market—to suspend the surveys, &c., 130; "a proposition that would check emigration to the new States of the West, 130; limit settlements, 130; deliver up large portions to the dominion of wild beasts, 131; remove the land records, 131; never right to inquire into the expediency of doing wrong, 131; inquiry is to do wrong," 131; charge upon the East of intending to check the growth of the West, 132; history of the first ordinance for the sale and survey, 132; to make clean work is like requiring your guest to eat all the bones before he should have more meat, 132; the propriety of selling at auction prices and at an arbitrary minimum for all qualities, 132; system adopted by all nations, 133; the British and Spanish colonies fostered under a very different system, 133; indefinite postponement moved, 133.

Distribution to the States.—Bill to reduce the price ordered to a third reading, 275; pre-emption established, 275; plan to distribute the proceeds reported, 275; report, 275; "inexpedient to reduce the price, or to cede the lands to the States, 275; sound policy enjoins the preservation of the existing system, 275; governments, no more than individuals, should be intoxicated by prosperity, 275; should husband their resources, 276; the proposal to divide the proceeds among the States, 276; a bill for this purpose reported," 276.

Impropriety of originating such a bill in a Committee of Manufactures, 276; referred to the Committee on Public Lands, 276; a counter report, 276; "this view fundamentally erroneous, 276; the Committee on Manufactures regard the Federal domain merely as an object of revenue, 276; quotation from the speech of Burke, 276; these sentiments the inspiration of political wisdom, 277; expectations from the public lands, 277; result of an experiment of near fifty years, 277; the bill to divide the proceeds is wholly inadmissible in principle and erroneous in its details, 277; it proposes to change injuriously and fatally for the new States the character of their relation to the Federal Government on this subject, 277; its effects, 277; the details of the bill are pregnant with injustice and unsound policy, 278; it makes no distinction between those States which did or did not make cessions of their vacant land to the Federal Government, 278; it proposes benefits to some States which they cannot receive without dishonor nor refuse without pecuniary prejudice, 278; these lands were granted to pay the debts of the Revolutionary War, 278; other objections, 278; postponed in the House, 279.

Distribution of proceeds.—Bill renewed, 362; arguments in its favor, 362; provisions of the bill, 362 advantages of settling the question and disposing of the public lands, 363; revenue from sales considered, 363.

A measure dangerous in itself and unconstitutional,

864; bill passed the Senate, 864; passed in the House with amendments, 864; Senate concur on the last night of the session, 864; retained by the President, 864: reasons, 864; denunciations of the Press, 865; next session bill returned with objections, 865; "first principles of the whole subject, 865; the practice of the Government, 865; an entire subversion of one of the compacts by which the United States became possessed of the Western domain, 866; these ancient compacts are invaluable monuments of an age of patriotism and virtue, 866; other principles inserted in the bill, 866; the object to create a surplus for distribution, 867; a more direct road to consolidation cannot be devised, 867; difficult to perceive what advantages will accrue to the States, 868; the true policy is that the public lands shall cease as soon as practicable to be a source of revenue, 868; statement of revenues derived from the public lands," 868; remarks on this veto message, 869.

R

RANDOLPH, JOHN, Representative from Virginia, 7; opposes Clay on the Missouri question, 10; decease of, 473; place of his death, 473; his career, 473; how he should be judged, 473; never enjoyed a day of perfect health, 473; insanity at periods, 473; conversation on that point, 474; his parliamentary life, 474; friendship with Macon, 474; disposition, 474; feelings on slavery, 474; as a duellist, 475; religious sentiment, 475.

Relief, Mr. Webster's plan of.—Renewal of the charter of the bank for six years, 433; to give up the exclusive or monopoly feature, 433; further particulars, 433; leave asked to bring in the bill, 433; opposition from Clay and Calhoun, 433; reasons for Calhoun's position, 434; his object to "unbank the banks," 434; remarks, 434; ultimate object to arrive at a metallic currency, 435; this an object of the administration, 435; conversations among Senators, 435; motion for leave to bring in a bill laid on the table, 435; excuse for this movement, 436.

No previous opportunity to show the people the kind of currency they were entitled to possess, 436; the Government intended to be a hard money Government, 436; evidences on this point, 437, 438; the quantity of specie derivable from foreign commerce, added to the quantity of gold derivable from our mines, were fully sufficient to furnish the people with an abundant circulation of gold and silver, 438, 439; the value now set upon gold is unjust and erroneous, 440; these laws have expelled it from circulation, 440; nature and effects of this false valuation, 441, 442, 443; intention and meaning of the constitution that foreign coins should pass currently as money, and at their full value, within the United States, 444; the plan presented for the support of public credit in 1791, 445; four points presented, 445; facts, 445; injuries resulting from the exclusion of foreign coins, 446; what reason can now be given for not preventing it? 447; a review of the present condition of the statute currency of the United States, 448; three distinct objections to the Bank of the United States as a regulator of the currency, 449; a power that belongs to the Government, 449; it cannot be delegated, 449; it ought not to be delegated to any bank, 450; differs from Mr. Calhoun in the capacity of the bank to supply a general currency, 451, 452; circulation of the bank in 1833, 453; objections to prolonging the existence of the present bank, 454; the conduct of the present bank, 454; that of the first bank, 455; the spirit which seems to have broken out against the State banks deprecated, 456; a small paper circulation one of the greatest grievances that can afflict a community, 457; restoration of the gold currency has great influence in putting down a small note circulation, 458. *See Public Distress.*

Removals from Office.—Error of De Tocqueville, 159; his statement, 159; case of Adams' administration, 159; no distinct party lines, 159; no case presented to him for political removal, 160; so in the main with Jackson, 160; extent of removals by him, 160; his election a change of parties, 160; he followed the example of Jefferson, 160; the circumstances of Jefferson, 160; the four years' limitation law not then in force, 161; fundamental principle, 161; his letter to Monroe, 161; do. to Governor Giles on removals, 161; do. to Elbridge Gerry, 161; do. to Mr. Lincoln, 161; Jefferson's law of removals, 161; said he had never done justice to his own party in this respect, 162; clamor against Jackson, 162; the practice of removals for opinion' sake becoming too common, 162; description of Macaulay, 162; the evil become worse since the time of De Tocqueville, 162; an evil in our country, 162; Jefferson's rule affords the remedy, 162; remarks upon it, 163.

Report of Government Bank Directors, 374.

Resolutions of Webster relative to the Compromise, 317; relative to the report of the Secretary of the Treasury on the removal of the public deposits, &c., 394, 398.

RHEA, JOHN, Representative from Tennessee, 7.

Rivers and Harbors.—Internal improvement of, how based, 4; how restricted, 4.

RIVES, WILLIAM C., on the meaning of the Virginia resolutions, 337; on the independence of Texas, 668.

ROBERTS, JONATHAN, votes for the Missouri Compromise, 8.

ROBERTSON, GEORGE, Representative from Kentucky, 7.

ROWAN, JOHN, on revision of the tariff, 95.

RUSH, RICHARD, Secretary of the Treasury, 55; negotiates for joint occupancy of Oregon, 109.

S

Salt Tax, repeal of.—This tax an odious measure, 143; fluctuations in the tax, 143; efforts to repeal it, 143; "the English salt tax and manner of its repeal, 144; the enormous amount of the tax, 144; contrary to every principle of taxation, 144; the distribution of this tax on different sections of the Union, 144; the Northwest, 144; the South, 145; the West, 145; provision curers and exporters were entitled to the same bounty and allowance with exporters of fish, 145; the provision trade of the West, 145; the repeal of the salt duty the greatest favor to this trade, 145; the domestic manufacture has enjoyed all possible protection, 146; time enough been had for the trial, 146; the American system without a gross departure from its principles could not cover this duty any longer, 146; every argument that could be used here had been used in England in vain, 147; the petition of the British manufacturers, 147; effect of an era of free trade in salt," 147.

This tax a curse, 154; a mystery in salt, 154; bill to abolish offered, 155; the fisheries, 155; "the tax on alum salt, the foundation of all these bounties, 155; different acts of Congress recited, 155, 156; reasons for abolishing the duty on alum salt, 156; an article of indispensable necessity to the provision trade of the United States, 156; no salt of the kind made in the United States, 156; the duty enormous and quadruples the price, 156; it is unequal in its operation, 156; means of drawing an undue amount of money from the public treasury, 157; a practical violation of one of the most

equitable clauses in the Constitution of the United States, 157; it now rests on a false basis, 157; its repeal will not materially diminish the revenue nor delay the extinguishment of the public debt, 157; it belongs to an unhappy period in the history of the government," 157.

Amount paid by it into the treasury, 714; quantity imported, 714; its import from England, 715; effect of the tax, 716; its direct injuries, 716; the burdens appear in the most odious light, 716; testimony of Dr. Young, 717.

SANFORD, NATHAN, Senator from New York, 7; candidate for Vice Presidency in 1824, 45.

SCOTT, JOHN, Delegate from Missouri, 8; presents the application of Missouri for admission into the Union, 9.

Seal of Colonel Benton, origin of it, 77.

Secession of a State—origin of the doctrine, 4; Senate in favor, 34; do. against, 34.

SERGEANT, JOHN, Representative from Pennsylvania, 7; on the committee to whom was referred the application of Missouri, 9; nominated minister to Panama, 60; renominated for the Vice Presidency, 232; candidate for the Vice Presidency, 282.

SEVIER, AMBROSE H., on the cession of the public lands, 709.

SHAW, H., Representative from Massachusetts, 9; votes for the admission of Missouri, 9; coadjutor with Clay on the Missouri question, 10.

Sierra Leone, origin of the colony of, 88.

SILSBEE, NATHANIEL, Representative from Massachusetts, 7.

Slaves deported, British Indemnity for.—Controversy respecting slaves carried off in the war of 1812 concluded in 1827, 88; similar controversy under the treaty of 1783, 88; origin of the colony of Sierra Leone, 88; subject referred to the Emperor Alexander, 88; arbitrament disputed, 88; payment made, 88; statement of the case, 88; the reference, 89; views, 89; the third treaty, 89; the payment, 90; the example, 90; question of restitution arising under the Revolutionary war, 90; number carried off, 90; the commissioners at Ghent, 91; French spoliation claim, 91; contrast with the claim for deported slaves, 91; proof that Northern men will do justice to the South, 91.

Slavery, effect of its existence or non-existence on different States.—"The ghost of the Missouri question, 136; the line drawn between the free State of Ohio and the slave State of Kentucky, 136; views of leading men North and South indisputably the same in the earlier periods of our government, 136; the sublime morality of those who cannot bear the abstract contemplation of slavery a thousand miles off, 136; the morality of the primitive Christians," 136; conduct of the Free States at the first introduction of the slavery topic into Congress, 137; further remarks, 138.

Slavery in the District of Columbia, Abolition of.—Memorial of Society of Friends in Pennsylvania, 576; source whence the memorial emanated, 576; previous proceedings on these memorials, 576; motion to reject when presented for reception, 576; this point the origin of a long and acrimonious war in the two Houses of Congress, 576; reception and condemnation would quiet the question, 576; moved to postpone, 577; remarks of Senator Benton, 577; "character of the petitioners, 577; the abolitionists, 577; publications and prints, 577; intended to inflame the passions of slaves, 577; cause of the massacre of San Domingo, 577; course of the French society, 578; the conspiracy in Louisiana, 578; these societies had already perpetrated more mischief than the joint remainder of all their lives spent in prayers of contrition and works of retribution, could ever atone for, 578; the conduct of the great body of the people of the free States, 579; object is to give that vote which will have the greatest effect in putting down these societies, 579; past action of the Senate," 579.

Slavery agitation.—Time of its rise, 5; unceasing efforts to alarm the South by imputations against the North, of unconstitutional designs on the subject of slavery, 609; letter of Mr. Madison to Mr. Clay, 609; letter to Edward Coles, 609; nullification in a new disguise, 609; publications to alarm the South, 610; the "Crisis," 610; the subject of a Southern Convention, 610; the conduct of Mr. Calhoun, 610; petitions for the abolition of slavery in the district of Columbia, 611; Calhoun's remarks, 611; extreme ground taken, 611; his doctrine, 611; reply of Mr. Morris, 612; Bedford Brown in reply to Mr. Calhoun, 612; King charges upon the remarks of Calhoun the effect of increasing the slavery agitation, 613; Calhoun, in reply, charges that any other course will divide and distract the South, 614; remarks of Mr. Hill relative to the views of Northern States, 614; petitions in the House, 615; remarks of Mr. Franklin Pierce, 615; course of the Telegraph newspaper, 615; the Herald of Freedom newspaper, 616; Calhoun sends a paper to the Clerk's desk to be read, containing an attack upon a member of the other House, 616; apology by the presiding officer for permitting it to be read, 616; remarks of Mr. Benton at the request, and in defence of Mr. Pierce, 617; the statement of Mr. Calhoun involved him in the solecism of sending forth incendiary publications through the action of the Senate, 617; remarks of Mr. Benton on this point, 617; remarks of Mr. King on the strange scene of Southern Senators attacking their Northern friends because they defended the South, 617; increase of abolitionism denied, 618; treatment of George Thompson, 618; further statements, 619; remarks of Mr. Webster, 619; refusal of Mr. Calhoun to vote on the motion to reject the prayer of petitioners, 619; his remarks, 619; an unjustifiable assumption, 620; memorial of the Society of Friends, 620; further remarks, 620.

Action of the House on abolition petitions, 621; resolution presented by Mr. Pinkney, 621; votes, 621; committee ordered and report, 621; report adopted, 621; remarks of Mr. J. Q. Adams on the reception of these petitions, 622; action of early Congresses on this subject, 623; Madison on abolition petitions, 623; his consistent course, 623; South, the point of danger from slavery agitation, 623.

SLOAN, JOHN, Representative from Ohio, 7.

SMITH, BERNARD, Representative from New Jersey, 9; votes for the admission of Missouri, 9.

SMITH, SAMUEL, Representative from Maryland, 7; on the committee to whom was referred the application of Missouri, 9; for Van Buren as Minister to England, 216; on the British West India Trade, 125; on the expenses of government, 230; on the protective policy, 268; on the compromise tariff bill, 315, 327.

SMITH, WILLIAM, Senator from South Carolina, 7; Judge, 7; votes for the Missouri Compromise, 8; moves to be excused from voting on the measure for the relief of public land debtors, as he was one, 12; excuse refused, 12.

SMYTHE, ALEXANDER, Representative from Virginia, 7.

SOUTHARD, SAMUEL L., Senator from New Jersey, 7; Secretary of the Navy, 55; on the Expunging resolution, 528; on the independence of Texas, 669.

Speakers in the House in favor of protection, 82; ditto against, 83.

Specie Circular.—Its issue marked the firmness, foresight,

and decision of General Jackson, 676; its purport, 676; extent of the land sales, 677; remarks on the evil which required the specie circular, 677; benefits of suppressing it, 677; a view of the actual condition of the paper currency, 678; bill which was the basis of the remarks rejected, 678; President decides to issue the order, 678.

Resolution to rescind the Treasury Circular offered, 694; remarks of Senator Ewing, 694; origin of the order, 695; its legality, 695; remarks of Senator Benton, 695; a little panic 695; letter of Mr. Biddle, 696; Clay's speech at Lexington, 696; illegality of the treasury order examined, 696; the new distress, 697; Mr. Biddle's description of it, 697; movement to produce a general suspension of specie payments, 697; remarks of Senator Benton, 697; reply of Senator Crittenden, 698; ditto of Senator Webster, 699; other speakers, 700; subject referred, 700; report, 700; action of the Senate, 700; cause of Mr. Benton's speech, 700; his speech on the proceedings, 701, 702; explosion of the banks foretold, 703; reply of Senator Walker to Benton, 703, 704; Mr. Calhoun's reason for not voting on the recision bill, 706; bill passed in the Senate, 706; amendment of the House, 706; lost, 706; veto, 706.

STEVENSON, ANDREW, chosen Speaker, 121; elected Speaker, 209; chosen Speaker of the House, 371.

STORES, HENRY R., Representative from New York, 7.

STOKES, MONTFORT, Senator from North Carolina, 7; Governor, 7; votes for the Missouri Compromise, 8.

STORY, JOSEPH, Justice of Supreme Court, 7.

Supreme Court, its Judges and officers, 731.

SWIFT, BENJAMIN, opposes the admission of Arkansas, 627.

T

TANEY, ROGER B., Attorney General, 181: nomination as Secretary of the Treasury sent in near close of the session, 470; immediately rejected, 470; resigns, 470; appointed Chief Justice, 731; vote in the Senate, 731.

Tariff and American System.—Beginning of the question, 32; protection looked for among the incidental powers, 32; the design was to make protection the object, and revenue the incident, 32; revision of the tariff proposed, 32; public distress the leading argument for the new tariff, 32; remarks of Mr. Clay, 32.

"Public distress of the whole country the most prominent object of attention, 32; its evidences, 32; its extent, 32; a truthful picture," 32.

Other speakers, 32, the distress disputed, 33; its cause the paper system, 33; no necessity for protection, 33; Webster's remarks, 33; other speakers in opposition, 33; passage of the bill in the House, 34; closeness of the vote, 34; moved to refer to finance committees in the Senate, 34; lost, 34; referred to committee on manufactures, 34; passed the Senate, 34; increase of revenue a motive with some friends of the bill, 34; views of the candidates for the Presidency, 34; position of various States on the bill, 34.

Revision of.—Date of a serious division between the North and South, 95; the work of politicians and manufacturers, 95; productions of different States favored by additional duties on their rival imports, 95; remarks, 95; "in vain that it is called the American system, 95; as a tax for the support of Government, it is to be supported; if for any other purpose, it is to be reprobated, 95; the surrender of individual opinion to the interest of the State," 95; the bill contained a vicious principle, 95; the tariff an issue in the Presidential contest, 96; manufacturers warned not to mingle their interests in politics, 96; change of policy in the New England States, 96; "she held back, 96; denounced, 96; the present measure called a New England one, 96; tone of those who administered the Government," 96; the question now both political and sectional, 97; the duty on indigo, 97; remarks on the motion, 97; "history of its production, 97; reasons for encouraging its home production, 98; reasons for a unanimous vote, 98; burdens imposed by every tariff on Virginia and the Carolinas," 99; "object to make the bill consistent, though opposed to the principle, 99; no boon asked for the South, 99; capacity of the country to produce it, 100;" motion lost, 100; a nominal duty imposed, 100; this regarded as an insult by the South, 100; Southern views of the bill, 100; scheme of this Tariff, where conceived, 101; the bill a regular appendage of presidential elections, 101; change between the prosperity of the North and the South, 101; cause to which attributed, 101; its justice, 101; feeling of the mass of democratic members, 102.

Reduction of Duties.—A certain amount reduced at the previous session, 303; a step in the right direction, 303; further reduction expected, 303; Verplanck's bill, 303; the financial history of the country since the late war, 309; a satisfactory statement, 309; carrying back the protective system to the year of its commencement, 309; abundant protection to real manufacturers, 309; bound to be satisfactory to the South Carolina school, 309; bill lingered in the House under interminable debates on systems and theories, 309; suddenly knocked over by a new bill, 309; moved to strike out all after the enacting clause, and to insert a new bill, called the compromise, 309; delay asked for by Northern members, 310; remarks, 310; "one short hour ago collecting our papers to go home, 310; a new bill, proposed, and the cry of 'question' raised, 310; hasty legislation deprecated in matters of great importance, 310; this matter assumes an imposing attitude, 310; a bill to tranquillize feelings, 310; it is said the next Congress will be hostile to the tariff, 311; the discontent has a deeper seat than the tariff," 311; the seductive and treacherous nature of compromise legislation, 311; bill passed at once, 311; a bill without precedent in the annals of legislation, 312; the manner of proceeding, 312; the degree to which it was a compromise, 312; list of the voters, 312.

Clay asks leave to introduce a bill called a "compromise measure," 313; remarks, 313; "two great objects in view, 314; the first object looks at the tariff, 313; it stands in imminent danger, 313; it must fall at the next session, 313; be productive of calamitous consequences, 313; can be placed on a better foundation now, than at the next session, 313; the majority of the dominant party is adverse to the tariff, 313; the father of the system charged with its unnatural abandonment, 313; a wish to separate it from politics," 314; the principle of the bill a series of annual reductions of one-tenth per cent., &c., 314; other features of the bill, 314; remarks on the number of years the protective policy has to run, and the guaranties for its abandonment, 314; a stipulation to continue nine years, and no guarantee for its abandonment, 314; moral guarantees, 314; "this project has not the elements of success, 315; a violation of the constitution, as the Senate have no power to originate a revenue bill, 315; after they are defeated, and can no longer maintain a conflict, they come to make the best bargain they can, 315; the tariff is in its last gasp, 315; what has the tariff led us to already? 315; what evidence that the manufacturers will not come at the end of the time, and ask more protection than ever," 315; "a measure for harmony, 315; the unhappy divisions of North and South attributable to this bill, 315; further

remarks," 315; fallibility of political opinions, 316; Clay's views, 316; Calhoun's views, 316; Clay's determination relative to a reaction, 316; manner in which the bill was received by the public, 316; Niles's Register, 516; conclusions of the manufacturers, 316; position of Webster, 316; not consulted on the subject, 316; "the bill a well-understood surrender of the power of discrimination, or a stipulation not to use that power for a certain period, 317; if the tariff is in danger, it is because the people will not sanction it, 317; resolutions relative to the bill," 317.

Probable reasons for Webster's exclusion from all knowledge of the compromise bill, 318; coincidence of his views with those of General Jackson, 318; a reduction of the tariff to a stable condition frustrated by the compromise bill, 318; objections urged against the bill, 318; attitude of South Carolina surmounted the objections, 318; would remove all cause of discontent from her, 318; House bill introduced during the discussion on the question of leave, 319; ditto passed, 319; share of the manufacturing states in this compromise, 319; an incident showing that measures may be passed on other reasons than their merits, 319; remarks, 319; "an extraordinary augmentation of duties in a bill which was to reduce duties, 319; two or three little factories in Connecticut must be protected, 319; contrary to the whole tenor and policy of the bill, 320; a view of the circumstances which had attended the duties on these woollens," 320.

Another incident—the character of protection openly claimed for this bill, 320; remarks of various Senators on this point, 321; silence of Calhoun on this point, 321.

The constitutionality of originating this bill in the Senate, 321; purely a question of privilege, and the decision of it belonged alone to the other House, 321; no Committee of Ways and Means in the Senate, 321; it is not the less a money bill from its object being protection, 321; amendment proposed relative to the drawback on manufactured imports, 321; instance refined sugar, 322; lost, 322; carried, so far as relates to sugar, in after years, 322.

Motion to substitute home valuations for foreign or imported goods, 322; strenuously opposed by Calhoun, 322; insisted upon by friends of the bill, 322; moved to lay the bill on the table, 322; adjournment moved and carried, 322; Calhoun recedes, 322; the conditions, 322; their fallacy, 323; debate on this point, 323; "a home valuation deemed necessary by the friends of the protective system, 323; believed that after nine years most of the manufacturers will be sufficiently grown to protect themselves under a twenty-five per cent. duty, 323; it would be an increase of duties, 323; essentially necessary in order to prevent and detect frauds, 323; it will be an entering wedge for future measures, 323; for the sake of conciliation, the bill is brought forward, 324; the objections to the motion insurmountable, 324; the bill will save South Carolina from herself, 324; you cannot have the fair twenty per cent. without adopting the principle of home valuation, 325; the unequal operation of the home valuation, 325; not possible to maintain our institutions and our liberties under the continuance of this controversy, 326; proposed to lay the bill on the table, 326; further debate, 327; motion withdrawn, 327; amendment moved, 327; adjournment moved, 327; carried, 327; amendment that no valuation be adopted which will operate unequally in different parts of the Union considered, 327; requirement of the constitution, 327; merchant put to great inconvenience, 327; the bill is declared to be permanent, 327; home valuation impracticable and unprecedented, and unknown in any legislation, 328; without the assurance that the principle will not be disturbed, bill should be opposed, 329; home valuation tending to a violation of the constitution, 329; injurious and almost fatal to the Southern ports, 329; create great additional expense, 329; an increase of duties in a new form, 329; the fate of the bill depends on the fate of the amendment, 329; two conditions of the vote of Mr. Calhoun, 329; amendment fixing a home valuation adopted," 330; a new principle thus adopted at the expense of the constitution, 330.

Compromise, secret history of.—Calhoun and Clay rival candidates for the Presidency, 342; leaders in opposite political systems, 342; cause of their friendship, 342; rupture, 342; a question between them, which had the upper hand of the other, 342; Letcher conceives the idea of a compromise to release South Carolina from her position, 342; determination of Jackson to arrest Calhoun for high treason, 343; conferences, 343; agreement with the manufacturers, 343; action of Mr. Clayton, 343; amendments which were agreed to, 343; manner of the passage of the home valuation amendment, 344; Calhoun's remarks, 344; his vote, 344; John M. Clayton master of both, 344.

Act of 1833.—Compromises, 344; act of 1833 a breach of all the rules and principles of legislation, 345; a conception of rival politicians who had failed in the game of agitation, and threw it up for the game of pacification, 345; how could this measure be effected in a country so vast and intelligent, 345; Benton's view of the compromise, 346; vices of the act, 346; mischiefs done to the frame of the government, 347. *See Protective System.*

Tatnall, Col., on the treaty with the Creeks, 64; second to Randolph in the duel with Clay, 72.

Taylor, John W., Representative from New York, 7; Speaker, 7; votes for the Missouri compromise, 8.

Taylor, John, decease of, a perfect and complete republican statesman, 45; demeanor, 45; dress, 45; his character, 45; writings, 45; presented the Virginia Resolutions of 1798, 46; on the Virginia resolutions, 351.

Taylor, G. K., on the Virginia Resolutions, 350.

Territories.—Their rights under the constitution, 4.

Texas, Independence of.—Memorials on the subject, 665; effects of the victory of San Jacinto, 665; remarks, 665; reference to Committee on Foreign Affairs moved, 666; if Texas has a government *de facto*, it is the duty of the government to acknowledge it, 666; moderation and deliberation counselled, 666; acknowledgment and admission advocated, 667; new theatre for the slavery agitation revealed, 667; a design to make Texas an element in the Presidential election, 667; the former cession of Texas, 667; the course of Calhoun, 667; remarks of Bedford Brown, 668; remarks of Mr. Rives, 668; national faith should be preserved inviolate, 668; report in favor, 669; "the balance of power and the perpetuation of our institutions," as a reason for admission, 669; resolutions of recognition passed both Houses, 670; remarks of Senator Benton, 670; the separation of the two countries among the fixed order of events, 672; the Alamo, 673; humanity of Mexican ladies, 674; calumny on the cause of the revolt, 674; the revolt has illustrated the Anglo Saxon character, 675.

Thomas, Jesse B., votes for the Missouri Compromise, 8.

Thomas, Francis, on Committee of Bank Investigation, 241 on the admission of Arkansas, 631.

Thompson, Smith, Secretary of the Navy, 7.

Tompkins, D. D., Vice President, 7.

Thorn, Lieut., his fate, 109.

Thorn, Hermann, application for a commission in the army, 183.

Treasury notes, resorted to, 1; degree of depreciation in second year of the war of 1812, 1.

Treaty of 1807.—Cause of its rejection without reference to the Senate, 1.

Treaty-making power.—Its extent, 4.

Treaty of Indian Springs, 58.

TRIMBLE, DANIEL, Representative from Kentucky, 7.

TUCKER, GEORGE, Representative from Virginia, 7.

TYLER, JOHN, Representative from Virginia, 7; on the force bill, 331; defends the Senate investigating committee's report, 486.

V

VAN BUREN, MARTIN, remarks on the treaty with the Creeks, 60; Secretary of State, 119; appointed Minister to England, 181; resigns his seat in the cabinet, 181; his rejection as Minister to England, 214; candidates for the succession to General Jackson, 214; effect of Van Buren's appointment as Secretary of State, 214; a stepping-stone to the Presidency, 214; appointed minister, and left for London, 214; charged with breaking up the cabinet for the purpose of ousting the friends of Calhoun, 214; his nomination sent to the Senate, and rejection certain, soon as a case could be made out for justification, 214; causes of objection, 215; rejection was not enough —a killing off in the public mind intended, 215; the speeches, 215; anecdote, 215; the speakers, 215; apostrophe of Madame Roland, 215; oh politics! how much bamboozling is practised in thy name, 215; tie votes, 215; speakers for the nomination, 216; grounds upon which the objections were based, 216; quotation from McLane, 216; report of Mr. Gallatin containing a refutation of the objections relative to the British trade, 216; the original of Van Buren's letter of instructions, 216; unpublished speech of Van Buren, 217; the Washington ground, 217; Jackson, author of the instructions, 217; letter of General Jackson to Van Buren after the latter became President, 217; completely disproving a dishonorable imputation, 217; Calhoun's friendship for Jackson, 218; the New York system of proscription, 218; silence of Benton, reason for, 218; his letter to Van Buren, 218; the rejection in England, 219; its effects upon Mr. Van Buren, 219; remark of Calhoun, 219; the tie votes, 219; the injunction of secrecy removed, 219; relative to removals under Jackson, 218; elected Vice President, 282.

VAN DYKE, NICHOLAS, votes for the Missouri Compromise, 8.

Veto of Maysville Road Bill.—Third veto on the subject of internal improvements, 167; history of these vetoes, 167; they embrace all the constitutional reasoning on the question, 167.

Veto of the bank, effects of.—This a general caption for the opposition newspapers throughout the country, 280; the ruin of the country made to appear, 280; extracts from journals, 281; the programme of the bank and its branches, 281; wicked attempt on the part of a moneyed corporation to govern the election, 281.

VERPLANCK'S, GULIAN C., bill for the reduction of duties, 308.

Virginia resolutions, suggestive of nullification to Mr. Calhoun, 335; debate of 1830, the dawn of the ideas of nullification, 347; the Virginia resolutions quoted, 347; nullification doctrines avowed, 347; resolutions of '98 appealed to, 347; the resolutions, 348; their vindication, 348; from their text, 348; the right and duty of State interposition claimed, 348; forcible or nullifying interposition not meant, 348; the constitution suggests several modes of interposition, 348; to interpose, does not mean to nullify and set at nought, 349.

The cotemporaneous interpretation, 349; where found, 349; speakers in the Virginia Legislature, 349; opinions advanced by the speakers, 350, 351; the opposers of the resolutions did not charge upon them, nor their supporters in any manner contend for any principle like that of nullification, 352; responses of State Legislatures, report on the, 352; extracts, 352; enumeration of the powers which in the premises are claimed for the States, 353; views of the republicans who adopted the resolutions, 353; remark of Madison, 353; of Monroe in 1800, 354; the passage of the sedition law, 354; conduct of the people of Virginia, 354.

The resolutions disabused of nullification by their author, 354; the letters of Madison, 355; extracts from his letter to Mr. Everett, 355; reasons for rejecting in the constitution fanciful and impracticable theories, 355; what the constitution adopts as a security of the rights and powers of the States, 356; completeness of these provisions for the security of the States, 356; on the doctrine of nullification, 356; letter to Joseph C. Cabell, 356, 357, 359; to Daniel Webster, 356; to James Robertson, 356; to N. P. Trist, 357, 359; to C. E. Haynes, 357; to Andrew Stevenson, 357; from a memorandum on nullification, 358, 359; *note*, 358; to Mr. Townsend, 359; further extracts, 360; remarks, 360.

Vote against the ratification of the treaty of 1818, 17; on repairs of Cumberland road, 22; on the bill to make a road to New Mexico, 44; on the bill to occupy the Columbia river, 50; on the nomination of Clay as Secretary of State, 55; on the nominations to the Panama mission, 66; on treaty with the Cherokees, 108; on leave to offer a resolution of inquiry relative to recharter of the bank, 205; on the recharter of the bank, 250; do. in the House, 250; on selling the stock of the United States in bank, 295; on the compromise tariff bill, 312; on the compromise bill, 330; on the bill to distribute the sales from public lands, 364; on the resolution of inquiry into the fitness of the persons nominated for bank directors, 385; on the resolution relative to the report of the Secretary of the Treasury, 395; on the resolution condemning President Jackson, 423; on Webster's plan of relief, 435; on laying the expunging resolutions of Alabama on the table, 528; on the branch mints, 553; on the deposit bank bill, 553; on the fortification bill, 555; on the incendiary publication bill, 588; on the reception of abolition petitions, 619; on abolition petition of Society of Friends, 621; on abolition petitions in the House, 621; on the Cherokee treaty, 625; on the admission of Arkansas, 631; on the distribution bill, 651; on recognizing the independence of Texas, 670; on the recision of the specie circular, 705; on the substitute to land distribution, 708; on striking out the deposit clause from the appropriation bill, 711.

W

WALKER, JOHN W., Senator from Alabama, 7; judge, 7; votes for the Missouri Compromise, 8; on the independence of Texas, 665; on the specie circular, 703.

War of 1812.—By whose exertions the declaration was obtained, 6; its great results, 6.

WASHINGTON, Judge, of Supreme Court, 8.

WATMOUGH, JOHN G., on the Committee of Bank investigation, 241.

WAYNE, JAMES M., moves a reference of the bank memorial to a select committee, 234; on the bank investigation 288; appointed Judge of the Supreme Court, 569.

WEBSTER, DANIEL, denies the public distress, 33; on the protective system, 96; on revision of the tariff, 96 on

the ordinance of 1787, 134; on the conduct of the free States on slavery, 137; in reply to Hayne, 138; debate with Hayne, 138, 140; opposes Van Buren as Minister to England, 215; on the recharter of the bank, 243, 244; on the prospect of public distress, 254; on the force bill, 332; on nullification, 338; on the French spoliation bill, 488, 505; on the Expunging resolution 550; on the bill to suppress incendiary publications, 586; on French affairs. 594, 596; on abolition petitions, 619; on the specie circular, 699.

White, Hugh L., on the entrance of the bank directors into the political field, 254.

Wickliffe, Charles H., on the Committee of Inquiry, 287.

Wilkins, William, on the force bill, 330.

Williams, John, Senator from Tennessee, 7.

Williams, Lewis, Representative from North Carolina, 7 Father of the House, 7.

Williams, T. H., votes for the Missouri Compromise, 8.

Wirt, William, Attorney General, 7, 55; counsel for the Cherokee Indians, 165; candidate for the Presidency, 282; decease of, 475; rank as a lawyer, 475; lessons of his life, 475; early condition, 475; authorship, 476; time of his death, 476; remarks of Mr. Webster at bar meeting, 476.

Woodbury, Levi, Secretary of the Navy, 181.

Wright, Silas, on the French Spoliation bill, 489.

Y

Yell, Archibald, on the cession of the public lands, 711.

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